

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1915.

No. 289.

THE UNITED STATES OF AMERICA, APPELLANT,

VS.

HAMBURG-AMERIKANISCHE PACKETFAHRT ACTIEN-
GESELLSCHAFT ET AL.

Filed November 14, 1914.

File No. 24528.

Term No. 332.

HAMBURG-AMERIKANISCHE PACKETFAHRT ACTIEN-
GESELLSCHAFT ET AL., APPELLANTS,

VS.

THE UNITED STATES OF AMERICA ET AL.

Filed January 23, 1915.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK.

VOLUME 10.

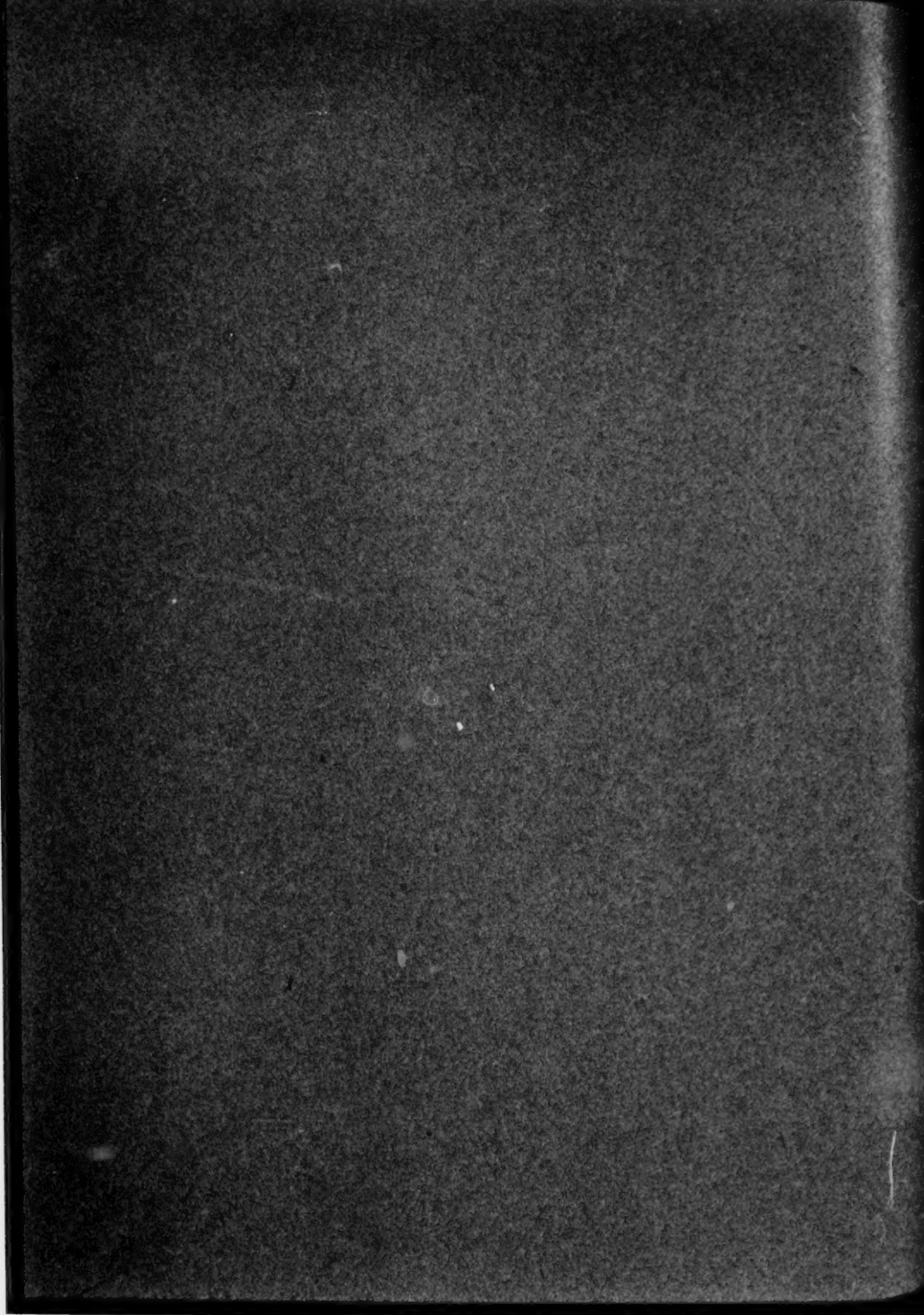
DEFENDANTS' EXHIBITS.

ADDENDA.

Pages 4987-5174.

REPRODUCED BY GOVERNMENT PRINTING OFFICE: 1916

(24446 and 24528)



1850

SUPREME COURT OF THE UNITED STATES

THE UNITED STATES OF AMERICA

Plaintiff Appellant

vs.

HAMPTON AMERICAN SHIP PACKING AND TRADING
COMPANY, and others

Defendants Appellees

DEFENDANT'S EXHIBITS
ADDENDA

VOLUME I

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF NEW YORK.**

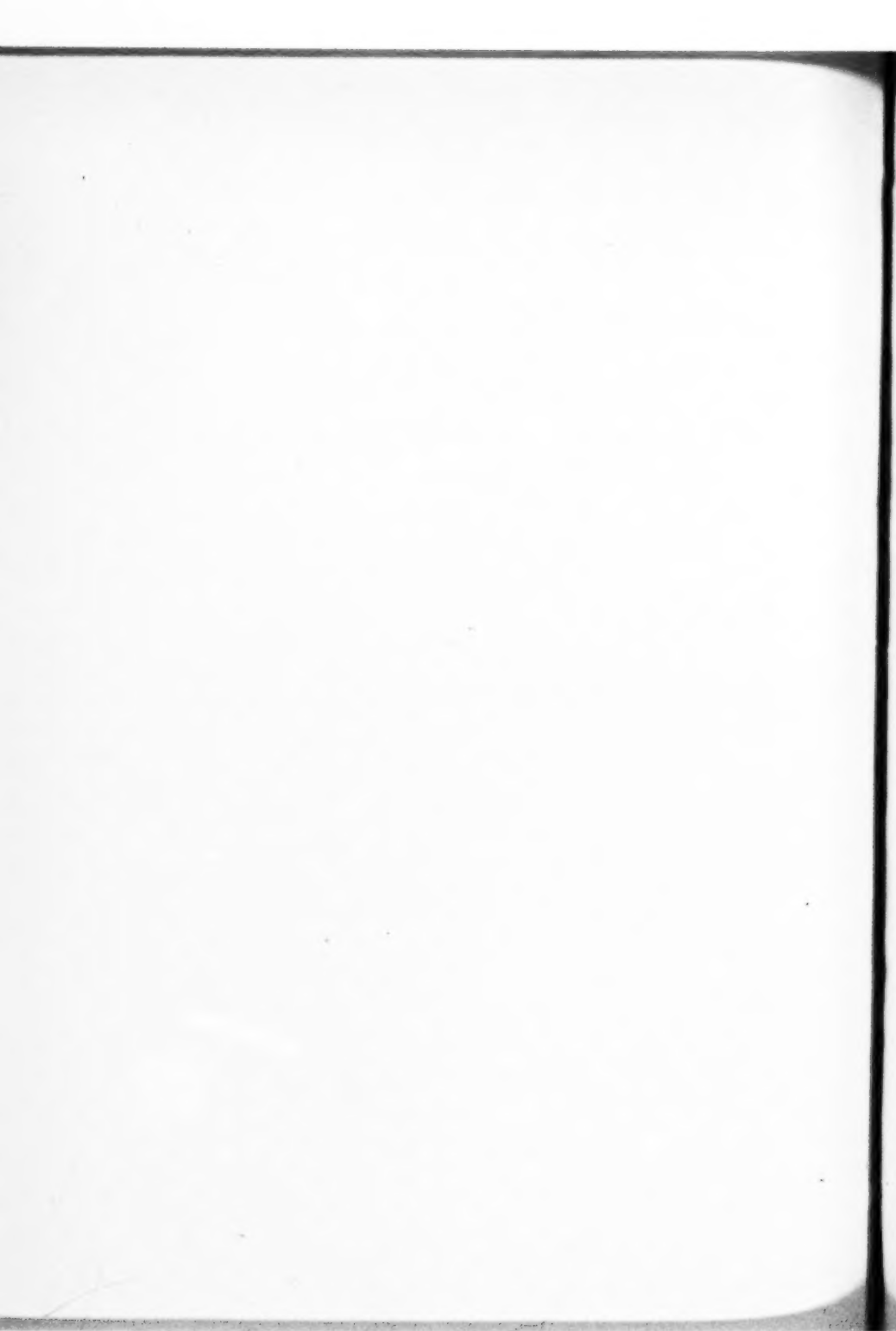
UNITED STATES OF AMERICA, PETITIONER,

against

HAMBURG-AMERIKANISCHE PACKET-
FAHRT-ACTIEN-GESELLSCHAFT,
AND OTHERS, DEFENDANTS.

EXHIBITS.

VOLUME X.



Defendants' Exhibit 2.

14779

Defendants' Exhibit 2 appears on page 820 of the testimony.

Defendants' Exhibit 3.

Translation.

Bremen, July 18, 1910.

Messrs. Oelrichs & Co.,
New York.

14780

III. Class Rate George Washington.

We have decided to reduce the III Class Eastbound Rate for above steamer, which, at your advice was increased to \$40, to \$38 again, in order to compete better with the competition of the Hamburg boats, which carry rates of \$37 and \$38. We hope that we will then again be able to count on full engagements.

We await your acknowledgment of receipt and remain

Respectfully,

N. G. L.

14781

14782

Defendants' Exhibit 4.*Translation.*

Per "Lusitania."

New York, July 26, 1910.

North German Lloyd,
Steerage Dept.,
Bremen.

14783

We acknowledge receipt of your favor of the 18th inst. and will accordingly reduce the III Class east-bound rate for SS "George Washington" from \$40 to \$38.

During the high season we would undoubtedly have always been able to fill the III Cabin on this steamer at the higher rate of \$40 from here, but during the dull season it no doubt is advisable to reduce the price somewhat, in order to keep step with the Hamburg steamers.

Respectfully,

OELRICHS & CO.

14784

Defendants' Exhibit 18.

14785

TENTH ANNUAL REPORT

of the

BOARD OF DIRECTORS

of

THE CANADIAN NORTHERN RAILWAY
COMPANY

For the Year ended 30th June, 1912

14786

CANADIAN NORTHERN RAILWAY
COMPANY,

BOARD OF DIRECTORS

Sir William Mackenzie	Toronto, Ont.
Sir Donald Mann	" "
Mr. Z. A. Lash, K. C., LL.D.	" "
Mr. Ferderick Nicholls	" "
Mr. R. M. Horne-Payne	London, Eng.

GENERAL OFFICERS

14787

Sir William Mackenzie	President
Sir Donald Mann	Vice President
Mr. D. B. Hanna	Third Vice President
Mr. Z. A. Lash, K. C., LL.D.	Senior Counsel
Hon. F. H. Phippen, K. C.	General Counsel
Mr. W. H. Moore	Secretary
Col. A. D. Davidson	Land Commissioner
Mr. M. H. MacLeod	General Manager
Mr. Geo. H. Shaw	General Traffic Manager

14788

Defendants' Exhibit 18

Mr. C. E. Friend	General Auditor
Mr. L. W. Mitchell	Treasurer
Mr. J. D. Morton	Assistant Comptroller

London (England) Offices

Bond Court, Walbrook, London, E. C.

Mr. R. M. Horne-Payne	Director representing the Company in Europe
Mr. H. W. Harding	Local Secretary
Mr. Scott Griffin	European Railway and Steamship Manager.

14789

CANADIAN NORTHERN RAILWAY
COMPANY

Tenth Annual Report of the Directors

Submitted to the Shareholders of the Company at the
Annual General Meeting Held at the Company's
Offices in Toronto on Wednesday, the
23rd Day of October, 1912.

To the Shareholders:

14790 The result of the Company's operations for the fiscal
year ended 30th June, 1912, are as follows:

Gross Earnings.

From Passenger Traffic	\$ 3,434,140.81
From Freight Traffic	1,567,998.17
From Express, Mail, Telegraph, Dining and Sleeping Cars, Interest and profits from Elevators and other Subsidiary Companies and Investments	1,857,954.65
	<hr/> \$20,860,093.63

Defendants' Exhibit 18

14791

<i>Working Expenses</i> (including Taxes &c.),	\$14,979,048.52
Net Earnings	\$5,881,045.11
Deduct:	
Fixed Charges (per statement, page 17)	4,630,844.12
Surplus	\$1,250,200.99
From this Deduct Interest at 5% per annum paid on Income Charge Convertible Debenture Stock out- standing	674,804.11
Net Surplus for the year	\$ 575,396.88

14792

The Gross Earnings show an increase of \$4,499,381.24 or 27.50 per cent, and in Net Earnings of \$890,698.29, or 17.85 per cent, over the preceding year.

The Working Expenses were 73.82 per cent of the Gross Earnings of the Railway proper and 71.81 per cent, including Taxes, of the Gross Earnings from all sources, compared with 72.59 per cent and 69.50 per cent respectively last year.

During the year over 586 miles of newly constructed tracks were added to the System, the average mileage operated being 3,888 miles.

14793

The classified table of freight carried again reflects a substantial development of the industrial and agricultural resources of the country served by your Railway. The statistics covering grain, including the figures representing flour shipments, show a total movement of over sixty million bushels, or approximately 32 per cent of the total inspected crop of Western Canada. This shows a notable advance over any previous year, and is a reliable indication of the productiveness of the territories your Directors have selected.

14788

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14794

Defendants' Exhibit 18

An increase of 120 per cent in the total bulk of commercial coal carried is also remarkable, the figures being 804,803 tons moved this year, compared with 370,161 tons for the previous twelve months. This increase is indicative of the growth of the coal mining industry in Western Canada, which, upon the completion of the extensions of your Railway now being constructed in the larger coal areas, will receive an even greater stimulus. There is also a further indication of the prosperous extension of the cities, towns and settlements along the lines of your Railway, as shown by the increase of 48 per cent over last year in the amount of building materials carried by your Railway during the year.

14795

Land sales during the year were 55,111 acres for \$836,084.37, an average of \$15.17 per acre, compared with 279,151 acres for \$3,345,498.73, an average of \$12.00 per acre, the preceding year. The reduction in sales is substantial, but your Directors, recognizing that the value of productive acreages in Western Canada is assured, and being desirous of, as far as possible, selling to settlers only, have not pressed the sale of your Company's lands. On the other hand, they have adopted an aggressive policy of colonizing the free lands offered by the Dominion Government in territories adjacent to your Railway. Two million four hundred and seventy-nine thousand acres of these lands were entered upon by settlers during the year, of whom a largely increased number were a most desirable class of British emigrants.

14796

The operation of the Royal Line of Steamships continues to vindicate the wisdom of engaging in the Atlantic trade. The increasing popularity of the route emphasizes the necessity for extending the service so that the Company may take the full benefit of the business controlled by its organization. The negotiations referred to in the previous Annual Report, having

The plaintiff joined the purchasing combination established by the defendant and procured goods through the latter from various firms; the defendant had assumed towards these firms the *del credere* up to a certain amount (that is to say had guaranteed these firms payment by the plaintiff). As compensation the plaintiff had to pay a commission of three per cent to the purchasing combination. After the plaintiff had paid the credits allowed defendant, the latter dissolved his business connection with that combination and entered into direct relations with the said firms. This business connection was dissolved at the instigation of the defendant because the latter put the firms making the deliveries to the alternative of either continuing business with him or of not delivering to plaintiff.

14978

The plaintiff claimed in the suit that the conduct of the defendant violated *bonos mores*, as defendant solely intended to damage him; that such purpose was realized by defendant because plaintiff had to look for other sources of supply and that he could only obtain credit from them gradually.

The Court says:

"The appellant urged error (in the court appealed from), regarding the meaning of *bonos mores*; if the defendant, as the court appealed from correctly held, had a legal right to establish the firm of R. B. in Fr., then a further examination of his different business motives appeared irrelevant, and if the act of the defendant in itself did not violate *bonos mores*, then his act could not become unlawful by reason of his alleged reprehensible motive of conduct, viz: according to the opinion of the court appealed from, his controlling desire for revenge.

14979

Defendants' Exhibit 19a

14980

"The appeal is justified. According to the facts found by the court below a conduct against *bonos mores* on the part of the defendant cannot be assumed. The court below does not overlook that the defendant pursued his own legal right, if after terminating the commercial relations with plaintiff he entered into connections with another firm in Fr. and received the latter into the purchasing combination, in order to make the same profit in the future as he had made through the former connections. * * *

14981

The successful exercise of individual commercial rights as a rule will be connected with damage to the competitors and knowledge of such injury alone cannot justify the assumption that the exercise of such right violates *bonos mores*. No objections, therefore, can be raised against the method employed by the defendant. It is true, according to the opinion of the court below, that the defendant in his procedure was also actuated by an immoral motive, namely by the intention arising from a sentiment of revenge to damage plaintiff, but such motive, however strongly it may have influenced the defendant, cannot turn the scale, in view of the exercise of a legal right. If an act is permissible and not illegal and if it is done in pursuance of a lawful right, then the act does not become a violation of *bonos mores*, if at the same time it is influenced by an immoral motive."

14982

Decision of June 7, 1910, by the Second Civil Division of the Imperial Court, in the Matter of Earthenware Industry W. (Plaintiff) against Wurttemberg Business Agency for Roof Tiles (corporation with limited liability), (Defendant). Vol. 73, Imperial Court Decisions, pp. 429-434.

(Head-note)

1. Influence of the illegality of an arbitration provision in articles of association of a cartel organized in the form of an association with limited liability.
2. Limits of the liability of a member of the cartel association; especially exclusion of the right to withdraw.

14984

The Articles of the Association of January 25th, 1905, provided that the combination, through a corporation, shall have the sole sale of roofing materials, with the exception of certain articles, and also the right to manufacture the same alone within certain Wurttemberg districts, and that it shall buy the roofing materials from the associates on the basis of certain percentages. The purchasing prices and selling prices are to be fixed every year by the associates. However, the selling prices may be changed at any time by the directors. The associates are forbidden, under penalties, to themselves sell roofing material within the territory exempted. On this basis, the by-laws of the company contain detailed provisions in reference to the fixing of prices, the acquisition of property, the accounting between the members, the adjustment of surplus deliveries, regarding the refusal of delivery, times of delivery, etc.

14985

In Article 63 of the articles of association it was provided that the directors or a commission delegated

14986

Defendants' Exhibit 19a

by them should, as an arbitration court, decide all controversies.

The plaintiff brought suit against the defendant asking the Court to adjudge that certain obligations imposed in articles 39 to 63 of the articles of association became extinct by its notice of withdrawal.

The Court says:

14987

"Defendant's demand is based on the allegation that a cartel could not be organized as an association with limited liability; that the articles 39 to 63 should be adjudged void because their not being restricted in time was violative of *bonos mores*; * * * that the article 63, especially violates further the principle that a party could not be judge in its own matter; that if article 63 is void, then as a matter of course the entire articles of association are void according to article 139 of the Civil Code.

* * * * *

14988

"The invalidity of the arbitration provision and therefore of article 63 of the articles of association has been adjudicated in the Court below. * * * The arbitration provision of article 63 does not belong to the essential provisions of the articles of association and therefore the latter are not affected by this article.

"The Court below denies that the articles of association violate *bonos mores*; for an illegal restriction of the members could not be found in the articles; all single provisions are such as the purpose of the cartel necessarily carries with it. The restrictions to which the members had subjected their business are in correct proportion with the advantages derived from their combination. That no right of withdrawal is allowed to the associates is consonant with an

June 30th, 1912.

	To Operating Expenses		\$14,794,463.5
	Taxes Railway		106,899.0
	Taxes on Company's Lands		77,685.9
	<i>Interest on Bonds, etc.:</i>		
	Consolidated Debenture Bonds, guar- anteed by the Government of Mani- toba	\$ 487,010.54	
14813	Ontario Division Debenture Bonds, guaranteed by the Government of Manitoba	230,699.46	
	Winnipeg Terminal Bonds, guaran- teed by the Government of Mani- toba	120,000.00	
	Three per cent Debenture Stock, guaranteed by the Dominion of Canada	280,799.86	
	Three and one-half per cent Deben- ture Stock guaranteed by the Do- minion of Canada	258,405.24	
14814	Four per cent Debenture Stock, guar- anteed by the Government of Mani- toba	113,828.49	
	Four per cent Debenture Stock guar- anteed by the Government of Sas- katchewan	236,319.28	
	Four per cent Debenture Stock, guar- anteed by the Government of Al- berta	89,960.00	
	Consolidated Debenture Stock	1,496,988.82	
	Qu'Appelle, Long Lake and Saskat- chewan Ry. four per cent Deben- ture Stock	202,055.99	
	Qu'Appelle, Long Lake and Saskat- chewan Ry. six per cent Bonds ...	963.60	
	Land Grant four per cent Bonds	163,792.52	3,680,823.80

Defendants' Exhibit 18

STATEMENT OF INCOME ACCOUNT

At 30th June, 1912.

June 30th, 1911.	
\$14,794.463.50	By Balance of Income Account at 30th,
106,899.05	June, 1911, as per Annual Report ..
77,685.97	June 30th, 1912.
	By Gross Earnings, viz:
	Passenger Earnings\$ 3,434,140.81
	Freight Earnings 15,567,998.17
	Express, Mail and Miscellaneous
	Earnings 1,857,954.65
	<hr/>
	20,860,093.63

3,680,823.80

Rental of Leased Lines:

Northern Pacific & Manitoba Railway	225,000.00
Minnesota & Manitoba Railroad ...	13,960.00

Interest on Equipment Securities ...	
Accrued Interest to June 30th, 1912 ..	459,090.25
Less Accrued Interest to June 30th, 1911, paid during the current year.	304,341.34

Interest at 5% per annum paid on
Income Charge Convertible De-
benture Stock outstanding
Balance of Income Account

Defendants' Exhibit 18

.00
 .00 238,960.00

.25
 711,060.32

.34 154,748.91

674,804.11

5,986,553.29

\$26,425,998.95

By balance to credit of Income Account, June 30th,
 1912

14818

Defendants' Exhibit 18

ACQUIRED SECURITIES

	The Minnesota & Ontario Bridge Co.	
	4½ per cent First Mortgage De-	
	benture Bonds	\$ 180,000.00
	Capital Stock	100,000.00
	The Minnesota & Manitoba R. R.	
	5 per cent General Mortgage Bonds	250,000.00
	Capital Stock	400,000.00
	The Lake Superior Terminals Co., Limited	
	5 per cent Mortgage Gold Bonds....	2,000,000.00
	Capital Stock	500,000.00
14819	The Canadian Northern Telegraph Co.	
	5 per cent General Mortgage Bonds	800,000.00
	Capital Stock	500,000.00
	The Winnipeg Land Co., Limited.	
	5% First Mortgage Gold Bonds....	300,000.00
	Capital Stock	100,000.00
	The Canadian Northern Coal & Ore Dock Co.	
	5 per cent First Mortgage Bonds ..	437,000.00
	The St. Boniface & Western Land Co.	
	5 per cent First Mortgage Bonds..	750,000.00
	Capital Stock	250,000.00
	The Edmonton & Slave Lake Railway	
	Co.	
14820	5 per cent First Mortgage Bonds..	420,000.00
	The Canadian Northern Prairie Lands	
	Co.	
	Capital Stock	483,393.55
	The Canadian Northern Railway Ex-	
	press Co., Limited.	
	4% First Mortgage Gold Bonds,	
	£616,438	3,000,000.00
	Capital Stock	1,000,000.00
	The Canadian Northern Steamships,	
	Limited.	
	5% First Mortgage Debenture	
	Stock, £600,000	2,920,000.00
	Capital Stock	2,000,000.00
		<hr/>
		\$16,390,393.55

DETAIL OF FIXED CHARGES FOR YEAR
ENDED 30TH JUNE, 1912

Guaranteed as to Principal and Interest by the Dominion Government of Canada

Amount	Date of Issue	Annual Charge
3 % Stock, £1,923,287	29th July, 1903	\$280,799.86
3½% Stock, £1,622,586*		258,405.24

Guaranteed as to Principal and Interest by the Government of Manitoba

4% Bonds, £2,497,800	30th June, 1904	\$487,010.54
4% Bonds, £1,180,600	30th September, 1901	230,699.46
4% Bonds, £ 616,438	(Winnipeg Terminals)	120,000.00
4% Bonds, £ 587,671	1st March, 1910	113,828.49

14822

Guaranteed as to Principal and Interest by the Government of Saskatchewan

4% Stock, £1,625,000*	18th May, 1909	\$236,319.28
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Guaranteed as to Principal and Interest by the Government of Alberta

4% Stock, £1,122,945*	10th June, 1909	\$ 89,960.00
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FOUR PER CENT PERPETUAL CONSOLIDATED DEBENTURE STOCK

£7,690,011*		\$1,496,988.82
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14823

QU'APPELLE GUARANTEED FOUR PER CENT 30 YEAR
MORTGAGE DEBENTURE STOCK

£1,037,972	17th October, 1906	\$202,055.99
£ 6,600*	(Six Per cent First Mortgage Bonds, 1911)	963.60

FOUR PER CENT LAND GRANT BONDS

£830,200	15th February, 1909	\$163,792.52
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LEASED LINES

Northern Pacific and Manitoba Railway	\$ 225,000.00
Minnesota & Manitoba Railroad	13,960.00
Interest on Equipment Securities	711,060.32

\$4 630,844.12

*For part of year only.

*Defendants' Exhibit 18*GROSS EARNINGS, OPERATING EXPENSES
AND NET EARNINGS

COMPARED WITH PREVIOUS FISCAL YEAR

GROSS EARNINGS

Per Cent.	1911	Class	1912	Per Cent.
17.54	\$ 2,869,677.05	Passenger	\$ 3,434,140.81	16.46
73.05	11,951,993.75	Freight	15,567,998.17	74.63
00.54	88,008.53	Mails	112,177.63	00.54
01.64	268,445.11	Express	466,157.11	02.24
07.23	1,182,587.95	Miscellaneous	1,279,619.91	06.13
100.	\$16,360,712.39	Total	\$20,860,093.63	100.

OPERATING EXPENSES

Per Cent.	1911	Class	1912	Per Cent.
20.77	\$ 2,362,004.23	Maintenance of Way & Struct's	\$ 2,608,866.45	17.42
19.50	2,216,841.91	Maintenance of Equipment	3,262,727.41	21.78
02.32	263,542.95	Traffic Expenses	360,474.34	02.41
51.71	5,879,357.71	Transportation Expenses	8,013,252.78	53.49
05.70	648,618.77	General Expenses	733,727.54	04.90
100.	\$11,370,365.57	Total	\$14,979,048.52	100.

SUMMARY OF EARNINGS AND EXPENSES

Per Cent.	1911	Class	1912	Per Cent.
	\$16,360,712.39	Gross Earnings	\$20,860,093.63	
69.50	11,370,365.57	Operating Expenses	14,979,048.52	71.81
30.50	4,990,346.82	Net Earnings	5,881,045.11	28.19
100.				100.

Defendants' Exhibit 18

1485

DESCRIPTION OF FREIGHT CARRIED

		For Year Ended June 30		
		1912	1911	1910
Flour.....	Sacks (100 lbs. ea.)...	2,854,136	2,215,094	1,789,768
Grain.....	Bushels.....	53,441,149	40,249,939	37,355,010
Live Stock (all kinds.)	Head.....	188,669	137,295	123,635
Logs and Lumber....	Feet.....	405,395,000	324,221,000	294,647,000
Firewood.....	Cords.....	227,030	210,625	189,535
Coal.....	Tons.....	804,803	370,161	282,718
Immigrants' Effects...	Cars.....	5.154	5.644	5.068
Building Material				
(Lime, Stone,				
Brick, Sand, etc.)	Cars.....	53,425	36,328	21,758
Miscellaneous.....	Tons.....	1,203,887	1,170,964	989,783

1482

EARNINGS, EXPENSES AND NET EARNINGS

From July 1, 1902, to June 30, 1912.

Year	Average Miles Operated	Earnings	Expenses	Net Earnings
1902-03	1,276	\$ 2,449,579.33	\$ 1,589,293.47	\$ 869,285.86
1903-04	1,349	3,242,702.69	2,120,772.43	1,121,930.26
1904-05	1,586	4,190,211.96	2,644,729.64	1,545,482.32
1905-06	2,064	5,903,755.61	3,674,732.85	2,229,022.76
1906-07	2,509	8,350,198.08	5,424,163.65	2,926,034.43
1907-08	2,866	9,709,462.71	6,676,775.82	3,032,686.89
1908-09	3,013	10,581,767.93	7,015,405.76	3,566,362.17
1909-10	3,179	13,833,061.63	9,488,671.60	4,344,390.03
1910-11	3,383	16,360,712.39	11,370,365.57	4,990,346.82
1911-12	3,888	20,860,093.63	14,979,048.52	5,881,045.11

1482

Defendants' Exhibit 18

PER MILE OPERATED

Year	Average Miles Operated	Earnings	Expenses	Net Earnings
1902-03	1,276	\$1,918.23	\$1,244.55	\$673.68
1903-04	1,349	2,402.71	1,571.40	831.31
1904-05	1,586	2,641.37	1,667.55	973.82
1905-06	2,064	2,860.34	1,780.39	1,079.95
1906-07	2,509	3,328.09	2,161.88	1,166.21
1907-08	2,866	3,387.81	2,329.65	1,058.16
1908-09	3,013	3,512.04	2,328.38	1,183.66
1909-10	3,179	4,351.39	2,984.80	1,366.59
1910-11	3,383	4,836.15	3,361.03	1,475.12
1911-12	3,888	5,365.25	3,852.64	1,512.61

PASSENGER, FREIGHT AND MISCELLANEOUS STATISTICS

COMPARED WITH PREVIOUS FISCAL YEAR.

	1912	1911	Increase or Decrease	Per Cent.
PASSENGER TRAFFIC.				
Passengers carried (Earning Revenue)	1,681,760	1,394,361	287,399	20.61
Passengers carried one mile	158,400,017	113,506,430	44,893,587	39.55
Passengers carried one mile per mile of Road	40,741	33,552	7,189	21.43
Average distance carried	94.18	81.40	12.78	15.70
Total Passenger Revenue	\$ 3,349,317.00	2,756,415.06	592,901.94	21.51
Average amount received per passenger	\$ 1.99.16	1.97.68	1.48	.75
Average amount received per passenger per mile	Cts. .02.115	.02.428	d .00.313	12.89
Total Passenger Train Earnings	\$ 4,012,475.55	3,226,130.69	786,344.86	24.37
Passenger Train Earnings per Train mile	\$ 1.21.074	1.17.116	.03.958	3.38

FREIGHT TRAFFIC

Revenue Tons carried	5,970,449	4,675,405	1,295,044	27.70	
Revenue Tons carried one mile...	2,024,003,946	1,385,711,579	638,292,367	46.06	
Revenue Tons carried one mile per mile of Road	520,577	409,610	110,967	27.09	
Average distance haul of one Ton.	339.00	296.38	42.62	14.38	
Total Freight Revenue	\$ 15,337,533.95	11,768,493.37	3,569,040.58	30.33	
Average amount received for each Ton of Freight	\$ 2.56.891	2.51.711	.05.180	2.06	
Average Revenue per Ton per mile Cts.	.00.758	.00.849	d .00.091	10.72	
Total Freight Train Earnings...	\$ 15,567,998.17	11,951,993.75	3,616,004.42	30.25	14834
Freight Train Earnings per Train mile	\$ 2.37.492	2.66.112	d .28.620	10.75	

PASSENGER AND FREIGHT
ETC.

Gross Earnings per mile of Road..\$	5,365.25	4,836.15	529.10	10.94	
Operating Expenses per mile of Road	\$ 3,852.64	3,361.03	491.61	14.63	
Net Earnings per mile of Road..\$	1,512.61	1,475.12	37.49	2.54	
Amount required per mile of Road to pay Fixed Charges, including Leased Lines	\$ 1,008.17	993.57	14.60	1.47	

TRAIN MILEAGE

Mileage of Passenger Trains	3,314,063	2,754,634	559,429	20.31	
Mileage of Freight Trains	6,555,157	4,491,345	2,063,812	45.95	

EXPENSES PER TRAFFIC
TRAIN MILE.

Maintenance of Way and Struc- tures	Cts. 26.44	32.60	d 6.16	18.89	
Maintenance of Equipment ...	Cts. 33.06	30.59	2.47	8.07	
Traffic Expenses	Cts. 03.65	03.64	.01	.27	
Transportation Expenses	Cts. 81.19	81.14	.05	.06	
General Expenses	Cts. 07.43	08.95	d 1.52	16.98	
Total	\$ 1.51.77	1.56.92	d 5.15	3.28	

14836

Defendants' Exhibit 18

SUMMARY OF EQUIPMENT.

		At 30th June		
		1912	1911	1910
	Locomotives	430	398	372
	Sleeping and Dining Cars ..	64	50	43
	Passenger Coaches	307	226	203
	Baggage and Mail and Express Cars	99	90	79
	Business Cars	14	11	11
	Freight, Refrigerator and Stock Cars	18,675	14,778	11,735
14837	Conductors' Vans	257	231	184
	Boarding, Tool, Auxiliary Cars, Steam Shovels and Snow Equipment	594	481	416

MILES OF RAILWAY.

The total number of miles of railway owned and operated, including leased lines, at the close of the fiscal year ended 30th June, 1912, was 4,316.62 miles, made up as follows:

14838

CENTRAL DIVISION.

District No. 1.

Port Arthur to Paddington	435.10
Twin City Junction to North Lake .	73.30
Emerson Junction to South Junction	72.70
	581.10

District No. 2.

Winnipeg Terminal Track in Terminal Yards, Union Station	10.49
Winnipeg Terminals—Paddington to Woodward Ave. (Main Line) ..	3.80

Defendants' Exhibit 18

14839

Winnipeg Transfer Tracks	5.61
Portage Junction to Emerson Junction	62.00
Morris to Somerset	62.20
St. James to Gypsumville	156.70
Greenway to Adelpha	51.80
Woodward Avenue to Dauphin	176.10
Delta Junction to Delta	14.80
Totogan Junction to Totogan	1.80
Oakland to End of Steel	32.70
Brandon Junction to Carberry Junction	22.90
Rosburn Junction to Ross Junction	190.60
Hallboro' to Beulah	75.00
Paddington to Bird's Hill	8.70
Neepawa Junction to Neepawa	33.10
Neepawa to McCreary Junction ...	37.30
Carman Junction to Belmont	118.50
Ochre River to End of Steel	15.00

14840

————— 1,079.10

District No. 3.

Arizona Junction to C. N. Junction.	298.80
Maryfield to Radville	139.80
Luxton to Beinfait	16.30
M. & B. Junction to Hartney Junction	38.00
Belmont to Virden	90.90

14841

Forward	583.80
	2244.00

WESTERN DIVISION.

District No. 1.

Dauphin to Humbolt	247.30
North Junction to Prince Albert ...	360.50
Sifton Junction to Winnipegosis ...	20.70
Thunder Hill Junction to Preceville	72.10
Hudson Bay Junction to Le Pas ...	87.50

————— 788.10

14842

*Defendants' Exhibit 18**District No. 2.*

Regina to East Prince Albert	249.30
Saskatoon to Alsask	169.80
Prince Albert to Blaine Lake	64.00
Shellbrook to Big River	56.50
Delisle to McRorie	45.80
	<hr/> 585.40

District No. 3.

14843

Humbolt to Edmonton	401.90
Dalmeny to Laird	27.80
North Battleford to Edam	38.30
Edmonton Junction to Morinville ..	21.50
Edmonton to Stony Plains	21.00
Vegreville to Drumeller	173.40
Battleford to Battleford Junction ..	8.00
Strathcona to Edmonton (E. Y. & P.)	7.22
	<hr/> 699.12
	<hr/> 4,316.62

LOCATED AS FOLLOWS:

14844

Province of Ontario	356.60
Province of Manitoba	1,758.25
Province of Saskatchewan	1,718.75
Province of Alberta	394.82
Territory of Keewatin	44.50
State of Minnesota	43.70
	<hr/> 4,316.62

Average mileage operated for fiscal year, 3,888 miles.

Defendants' Exhibit 19.

14845

REPORT

on inspection of PREMISES, BOND COURT HOUSE
FROM OUTSIDE

FIRST FLOOR

4 Windows
White letters

3 Windows
Nothing on

Canadian
Northern
Railway
Company

14846

No names on any other windows

Large name plates at Entrance on each side with
the words:

CANADIAN
NORTHERN
RAILWAY
COMPANY

and one with the words VIVIAN & SON.

BOND COURT HOUSE
NAMES IN PORCH
RIGHT HAND SIDE

14847

FIRST FLOOR

Canadian Northern Railway Company
Inverness Railway & Coal Company
Canadian Northern Ontario Railway Company
Canadian Northern Quebec Railway Company
Qu'Appelle Long Lake & Saskatchewan Railroad
and Steamboat Company
Canadian Northern Steamship Limited
Western Dominion Collieries Limited

14848

Defendants' Exhibit 18

SECOND FLOOR

VIVIAN & SONS

THIRD FLOOR

The Uranium Steamship Company Ltd.
 Canadian Northern Railway Company
 (Accountants' Department)

GROUND FLOOR

Canadian Northern Railway Company
 (Publicity Department)

14849

LOWER GROUND FLOOR

Left Hand side of Porch

FIRST FLOOR

Canadian Northern Railway Company
 Inverness Railway & Coal Company
 Canadian Northern Ontario Railway Company
 Canadian Northern Quebec Railway Company
 Qu'Appelle Long Lake & Saskatchewan Railroad
 and Steamboat Company
 Canadian Northern Steamship Limited
 Western Dominion Collieries Ltd.

14850

SECOND FLOOR

VIVIAN & SONS

THIRD FLOOR

The Uranium Steamship Company Ltd.
 Canadian Northern Railway Company
 (Accountants' Department)

GROUND FLOOR

LOWER GROUND FLOOR

Defendants' Exhibit 19

14851

BOND COURT HOUSE

INSIDE

GROUND FLOOR

Swing Panel Door with words CANADIAN NORTH-
ERN RAILWAY COMPANY—PUBLICITY DEPART-
MENT

FIRST FLOOR

Large Glass Doors with words CANADIAN NORTH-
ERN RAILWAY COMPANY

14852

On left-hand side of large glass doors

Canadian Northern Railway Company
Canadian Northern Ontario Railway Company
Canadian Northern Quebec Railway Company
Qu'Appelle Long Lake & Saskatchewan Railroad
and Steamboat Company
Duluth Winnipeg & Pacific Railway Company
Canadian Northern Steamship Limited
Inverness Railway & Coal Company
Western Dominion Collieries Ltd.

THIRD FLOOR

GLASS PANEL DOOR on right with words CANADIAN 14853
NORTHERN RAILWAY COMPANY

LARGE PICTURE in PORCH

left-hand side

ROYAL LINE

CANADIAN NORTHERN STEAMSHIPS "Royal Ed-
ward" "Royal George" Each vessel 12,000 Tons
Gross Bristol to Quebec Montreal
CANADA welcomes the New Steamship Line

14854

Defendants' Exhibit 19a

OFFICES

Bristol 65 Baldwin St.
 Liverpool, Exchange Buildings
 London Bond Court House, Walbrook
 " West End, 65 Haymarket
 Birmingham, 141, Corporation Street

1 New Court,
 Lincoln's Inn,
 Solicitors.

14855

Defendants' Exhibit 19a.

Decision of June 25th (also referred to as of July 5th), 1890, by the First Civil Division of the German Imperial Court (Reichsgericht), in the Matter of M. S. M. (Plaintiffs) against M. and others (Defendants). Vol. 28 Imperial Court, Decisions, pp. 238-251.

(Head-note)

14856

Measures taken by a combination of traders for the purpose of excluding a person in the same trade from all association with the members of the combination until his submission to certain principles adopted for the doing of business, and of publicly designating him as excluded. Is a liability thereby created to make good the damage thereby caused?

One of the plaintiffs was a member of the combination, the German Booksellers' Association at Leipzig, until 1888. He resigned because he would not submit to the new by-laws. The new by-laws, adopted in the year 1888, made it compulsory upon each member to

Defendants' Exhibit 19a

14857

comply with the terms regarding rebates in sales adopted by the association, and prohibited the sale to members or non-members who did not comply with such conditions. After he had ceased to be a member of the association, the plaintiff began to allow a larger rebate to his customers than was admissible under the rules of the association. The association thereupon requested its members by circular to cease furnishing books to the plaintiff. The plaintiff was also included in a list published in the association's Journal, containing the names of booksellers put under a ban on similar grounds, and the members of the association were told that, in the event of their furnishing any books to the plaintiff, they would also be included in the black list. The suit for damages was dismissed by the two lower courts. The Imperial Court reversed the judgment of the lower courts and ordered a new trial.

14858

The Imperial Court admits that the purposes of the association of the book dealers regarding rebates are perfectly lawful, and not subject to any objections, and justified by the historical development of the book trade in Germany. It is a different thing, however, the Court says, to forbid the members generally to sell under any circumstances to plaintiff. If it was absolutely impossible for plaintiff to buy books, then plaintiff could not sell the same any more. Such conduct cannot be considered lawful.

14859

In regard to the legality of the purposes of the association, the Court says:

"In the first place, it seems in point to deal with certain allegations made on behalf of the plaintiff according to which it would appear that the very object of the association, consisting in the imposition on all members of the trade of fixed rules as to the rebate to be al-

14860

Defendants' Exhibit 19a

14861

14862

lowed to customers, was in itself an unlawful interference with the free formation of prices to which the customers were entitled, as well as a restriction on the freedom of trade, and therefore constituted a violation of public order and was an act '*contra bonos mores*,' and that the Association was in the nature of a 'ring.' In answer to these allegations it is necessary to point out that they might be relevant if there had been an association of persons, who, for their speculative purposes, had as their object the command of the market for a particular kind of goods and the hemming in of the free action of economic forces, which might operate against such purposes. But such combinations must be kept entirely apart from associations of persons in the same trade who, in good faith, co-operate for the purpose of preserving the vitality of such trade, by preventing the depreciation of the products of such trade, and the other disadvantages arising from mutual underbidding. It does not follow from the principle of the freedom of trade that the free play of economic forces is to be unassailable, to the extent of making it unlawful for traders to attempt any regulation of the operation of these forces by means of associated self-help, or to restrain each other from acts deemed to be harmful to the common cause."

Defendants' Exhibit 19a

14863

Decision of February 4, 1897, by the Sixth Civil Division of the Imperial Court, in the Matter of B. (Defendant) at the suit of the Saxon Wood Pulp Manufacturers Syndicate (Plaintiff). Vol. 38 Imperial Court Decisions, pp. 155-162.

(Head-note)

Combination of trades people for the purpose of obtaining and preserving adequate prices for their trade production.

Are restrictions, to which the members submit by the by-laws of the combination in reference to the carrying on of their trade, valid, considering the principle of freedom of trade, and can penalties be recovered, by suit, which a member is alleged to have forfeited by transgressing the restrictions imposed by the by-laws on his trade? 14864

Are the members entitled by law to resign from the combination at any time, contrary to the provisions of the by-laws?

In March, 1893, a large number of traders organized the above named association for the purposes of "preventing in the future destructive competition of the manufacturers between themselves, and to obtain an adequate price for their manufactures." For such purpose the members, under penalty, agreed to sell their manufactures exclusively through a common selling agency. The association was to continue at least until October 31, 1895. 14865

The combination sued a member for the payment of the penalty alleged to have become due on account of the fact that the defendant sold his manufactures directly to other paper factories, instead of through the common selling agency. The defense of the invalidity of the agreement, as being contrary to the prin-

14866

Defendants' Exhibit 19a

ciple of freedom of trade, was overruled. The Court says:

14867

"The association now suing, as is expressly stated in the articles of association and not denied by the parties, has been organized to prevent, in the future, destructive competition between the Saxon Wood Pulp Manufacturers and to make possible the obtaining of higher prices than could be obtained from unrestricted competition. Regarding the question whether a combination pursuing such objects violates the principle of freedom of trade expressed in the Trade Law, two points of view are to be considered: *First*, whether, by a combination of trade people for the purpose of maintaining certain minimum prices for their products, the intentions of the legislator, in so far as he desires to further the interests of the community by liberty of trade, are not militated against in an inadmissible manner; *Second*, whether by agreements of the kind in question, the individual freedom of a person is limited in a manner violating the intention of the legislator.

14868

"The first question has repeatedly been answered in the affirmative, especially outside of Germany (citing text-writers), but, on the other hand, the following must be considered.

"If in a given trade the prices of the manufactures are sinking too low, and if thereby the profitable carrying on of the trade is prevented or endangered, then the crisis thereby created is not only pernicious to the individual, but also to the economical status of the people in general, and it is therefore in the interests of the community that prices in a given trade shall not permanently be inadequately low. The legis-

latures accordingly have often, and also recently, attempted to increase the prices of certain productions by the introduction of protective tariffs. Therefore, it cannot be stated unqualifiedly and generally, that it is contrary to the interests of the community, if manufacturers in a particular trade combine in order to prevent underbidding and the sinking of the prices of their product, or to moderate the same. If prices in fact are continuously too low, so as to threaten the manufacturers with economical ruin, their combination is not only a justified exercise of their right of self-preservation, but also a measure serving the interests of the community, and therefore, from different quarters, the formation of syndicates and cartels of the kind in question have been referred to as a means, which, if properly applied, is especially suitable to be of benefit to the entire community, by preventing uneconomical and wasteful overproduction and the catastrophes resulting therefrom (citing text writers).

14870

"In accordance therewith, it has been held repeatedly in the past by German and other courts that it does not violate the principle of freedom of trade, so far as the same is intended to protect the interests of the community against the self interest of the individual, if people in the same trade combine together to pursue, in good faith, the purpose of keeping a certain trade in a condition to live, by protecting their products against their becoming valueless, and the other disadvantages which result from underbidding by individuals (citing various decisions of state courts of appeal (Oberlandesgerichts), and the decision by the

14871

Defendants' Exhibit 19a

14872

Imperial Court of June 25, 1890, vol. 28, p. 238).

"Agreements of the kind in question can, therefore, from the standpoint of the public interest protecting the freedom of trade, only be objected to, if in a given case objections arise on account of special circumstances, particularly if the agreement is evidently intended to create an actual monopoly and the extortionate exploitation of the consumers, or if such results will in fact be produced by the agreements and manipulations made.

14873

"As far as concerns the second of the questions raised above, the provision of the Trade Law, by which there is guaranteed to every individual the right to carry on his business at his pleasure, in so far as the laws do not specially prescribe or admit of exceptions and restrictions, cannot be interpreted to mean that the individual may not by contract subject himself to any restriction regarding the time, place or manner of the exercise of his trade. That this is not the meaning of Paragraph 1 of the Trade Law has been constantly held by the Imperial Court, by answering the question, whether agreements prohibiting competition can be legally entered into, in the affirmative, with the restriction that such agreements can only limit the freedom of trade of the individual but not destroy the same forever in all or certain directions.

14874

"The restrictions to which in the case at bar the defendant submitted himself by joining in the agreement of March 22, 1893, are, neither regarding their extent nor regarding the time for which they were entered into, so far-reaching that according to the principles just de-

Defendants' Exhibit 19a

14875

veloped, a restriction limiting the individual freedom of trade in an inadmissible manner could be spelt out therefrom."

Decision of February 19, 1901, by the Seventh Civil Division of the Imperial Court, in the Matter of the Mine ver H. (Defendant) at the suit of the Rhine-Westphalia Coal Syndicate (Plaintiff). Vol. 48 Imperial Court Decisions, pp. 305-317.

(Head-note)

14876

"In case a number of mine owners, for the purpose of avoiding competition, make an agreement to turn over their production, at a price to be fixed by certain representatives, to a corporation which undertakes its sale, what legal relations arise, first, between the owners of the mines, as an entirety and the stock corporation, and, second, between the latter and the individual mine owners?"

The decision recognizes the legality of the syndicate.

14877

Decision of April 11, 1901, by the Sixth Civil Division of the Imperial Court, in the Matter of Bl. (Plaintiff) against D. A. Steamship Company (Defendant). Vol. 48 Imperial Court Decisions, pp. 114-129.

(Head-note)

Is article 826 applicable to the case where a steamship company in competition with other carriers imposes

14878

Defendants' Exhibit 19a

on a business firm interested in the under-price of the adversaries, as a means of compulsion, the exclusion from their general freight tariffs?

"The defendant in September, 1899, made an agreement with a competing group of sailing vessels, in reference to mutual competition in the freight business to Adelaide, Melbourne and Sydney from Hamburg, Bremen and Antwerp, whereby the minimum amount of the freight rates of both parties were fixed. The defendant thereupon extended its freight business also to Brisbane.

14879

"As an attempted agreement with the sailing vessels, by which they should entirely give up their freight business to Brisbane, could not be attained, the defendant, by letter of December 11, 1899, informed the plaintiff, who as a forwarding agent brought to the sailing ships important freights, that it was compelled to take measures to secure to itself the said business, including the measure that it would suspend for the firms interested in the Brisbane sailing business and who were adversaries of the defendant the effect of its freight tariffs for all ports, not only for Hamburg but also for Antwerp; that the defendant was willing to give the plaintiff an opportunity, before such measure was carried out, to confer with the defendant in reference thereto. In a letter of December 27, 1899, the defendant informed the plaintiff that from now on the effect of all its freight tariffs from and to all ports touched by defendant's ships had been suspended both for the Hamburg as well as the Antwerp firms of the plaintiff, directly and indirectly. The plaintiff replied on December 29, 1899, that it would

14880

Defendants' Exhibit 19a

14881

try to bring about an agreement between the plaintiff and the sailing vessels, protesting at the same time against the measures threatened and made effective by the defendant. On January 8, 1900, the plaintiff informed the defendant that it had been instructed by the firm of Wm. Sp. & Co. in Capstadt to load certain goods from Antwerp to Capstadt and asked for communication of the respective freight rates. The defendant answered the same day that for the said goods, if they should be laden for Wm. Sp. & Co., it would charge the tariff rate and added:

14882

"We would however request Sp. & Co. in the future to use another agent and give notice that otherwise we would charge higher rates."

Thereupon the plaintiff on January 11, 1900, protested and requested the withdrawal of the threat made, otherwise it would bring suit for an injunction. The Court says:

"In Germany, there is a legal compulsion to carry only for railroads (citing statute) but not for land freight transportation generally and not for ocean freight commerce.

* * * * *

14883

"The standard of the meaning '*bonos mores*' (see Article 138 of the Civil Code) must be taken by the judge from the controlling conception of the people, 'the ethical feeling of all fair and just thinking persons.' In this connection it is not precluded that regard be had to the moral view of a certain circle of the people, if in such view the dominant habits are expressed, for instance in the case at bar the conception of an honorable merchant in commercial intercourse. Herewith, however, is not to be con-

14884

Defendants' Exhibit 19a

fused a business practice actually resorted to in commercial intercourse which possibly cannot be considered as a sound habit but rather as a bad one. If therefore the court appealed from designates the measures in question as they are similarly applied every day in free competition, then thereby, not considering the actual correctness of the assumption, the applicability of section 826 of the Civil Code has not been decided. In trade and commerce, especially in the fight of competition, very often manipulations occur which for such reason by no means can be considered as decent. Especially must article 826 of the Civil Code now give protection against the abuse of the liberty of trade by gainseeking exploitation or by violence towards others.

14885

"The decisive point in the conduct of the defendant lies in the withdrawal of the general freight tariffs as against the plaintiff. This act would be in itself not an unlawful one, as according to the above deductions a legal liability in this respect did not exist for the defendant under the laws in point.

* * * * *

14886

"A rule of compulsory carriage binds the carrier, who holds himself out to the public to carry on certain conditions, to apply the same measure to all interests assigned to him and denies to him the right arbitrarily or for unfair reasons to exclude the individual from the terms of transportation otherwise offered the public. A conduct of the latter kind, may however, where a compulsory duty does not exist, amount to an act against *bonos mores*. Likewise according to the conception of fairness and honesty in commerce prevailing with

Defendants' Exhibit 19a

14887

us, one will see, in the conduct of a carrier who excludes an individual—or a certain group of individuals—from the tariffs offered generally to the public, a violation against *bonos mores*, in case it is done for unfair competition.

"An unfair competition however would exist if in the case at bar the defendant, solely for the purpose of pushing aside or suppressing competition inconvenient to it, undertook by exceptional tariffs to injure the interests of the competition. * * * That the plaintiff by the exclusion from the benefit of the general tariffs and the charging of rates was injured in his business is in itself apparent."

14888

The Imperial Court reversed the judgment appealed from and sent the case back for a new trial.

Decision of May 29, 1902, by the Sixth Civil Division of the Imperial Court, in the Matter of K. and others (Plaintiffs) against the Enamel Works W. & E. (Defendant). Vol. 51 Imperial Court Decisions, pp. 369- 385.

(Head-note)

Does article 826 of the Civil Code apply, if in a strike the employer requests his fellow traders not to engage the striking workingmen named by him?

14889

Action brought by workmen, who had been put on a "black list" by an employees' association.

The Court says:

"Measures such as stoppage of business or boycott, under certain circumstances, fall within Article 826 of the Civil Code, especially if therewith is connected a defamatory state-

14890

Defendants' Exhibit 19a

14891

14892

ment whereby somebody is characterized as personally unworthy of intercourse with a certain circle. The making of a so-called black-list whereby the employment of certain workingmen is advised against, does not necessarily and always contain such a defamatory statement. Above all, the application of Article 826 of the Civil Code to such measures will always depend upon the circumstances of the given case, upon the manner and kind of the influence over the freedom of will of the adversary and of the disadvantages inflicted upon him. An act which has for its purpose a result totally to undermine the commercial existence of the adversary in the battle for wages, *permanently* to make him breadless and tradeless, must be adjudged differently from a measure only intending to cut off temporarily the adversary, for the duration of the battle for wages, from his possibility of earnings in the given branch of trade, to compel him thereby to give in and to submit to the conditions exacted. A case of the latter and not of the first mentioned kind is presented here according to the findings of the court appealed from, according to which the defendant, in the first place, desired, by the measure in question and by way of coalition of the employers, to make the striking workmen more pliable to assume work with it; the defendant in the circular requests the other manufacturers to give to it their indirect support in the fight for wages opened against it by the workmen, by not receiving in their employ the workingmen designated by name, who "frivolously desert a good and safe living."

Accordingly it was held that section 826 did not apply.

Defendants' Exhibit 19a

14893

Decision of November 6, 1902, by the Sixth Civil Division of the Imperial Court, in the Matter of H. (Defendant) at the suit of E (Plaintiff). Vol. 53 Imperial Decisions, pp. 19-23.

(Head-note)

Combination of traders for the purpose of obtaining and maintaining adequate prices for their commercial services. Under what condition has an individual member the right to withdraw from the agreement contrary to its provisions.

14894

The parties, together with three others who like themselves carried on the business of loaning scaffolds, on June 27, 1899, entered into a contract whereby each bound himself to the others to charge his customers in an agreed manner a certain price for the loan of scaffolds and not lower prices. Violations, as the contract provided, should be made good by the violators in each individual case by a penalty of 1,000 Marks in favor of the other signers of the contract.

The defendant without doubt repeatedly charged his customers lower prices than provided in the contract. The plaintiff, on each account, asked his share of the penalties forfeited by the defendant.

14895

The Court says:

"The appellant claimed that the contract was an agreement of association from which the single participant for good reasons could withdraw and that the repeated breach of contract by the others establishes such a justifying ground to withdraw. We cannot concur in such a view as the contract of the parties, viewed from the standpoint of the controlling common law does not fall entirely within the

Defendants' Exhibit 19a

14896

meaning of an association. Combinations of traders for the purpose of fixing minimum prices for the customers of the individual participants are not associations within the proper meaning of the word, though their legal character is kindred to them. * * *

14897

By a cartel agreement the maintenance of the price cannot be achieved if most of the participants do not live up to the contract. Everyone, who contrary to the contract closes at a lower price, puts those observing the contract in danger of losing their clientele. The danger increases in the measure in which the number of the violators of the contract increases. And the possibility of a suit to recover the proportionate payment of the contract penalties will not always make up for the threatening economical disadvantages. We must therefore proceed, in the default of the other provisions in the contract, with the assumption that in contracts of the kind in question the individual participant only intended to bind himself in so far and for so long as the obtaining of the desired purpose, from a reasonable interpretation of the facts, has not been rendered impossible by the other parties to the contract. In the case at bar, if defendant's allegations are true, the other three participants, that is to say the majority, did not live up to the contract and the plaintiff did not wish to overcome this by enforcing the penalty. Then the majority of the parties interested have frustrated the purpose of the association towards the defendant and therefore the defendant had the right on his part to declare his withdrawal.

14898

Defendants' Exhibit 19a

14899

Decision of December 14, 1902, by the Sixth Civil Division of the Imperial Court, in the Matter of the Artistic Union (Plaintiff) against the Exchange Association of German Booksellers (Defendant). Vol. 56 Imperial Decisions, pp. 271-287.

(Head-note)

Does Article 823 or Article 826 of the Civil Code apply, if a combination of traders imposes on persons in the same trade measures directed to inducing the latter to submit to certain rules adopted for the business, by excluding the person violating them from certain institutions and by refusal to make deliveries or by making it more difficult to obtain the products of the trade.

14900

The defendant association was entered into for the purpose of preventing, in the interests of the German book trade, the allowance of excessive rebates, and imposed in its by-laws the duty upon its members to refrain from publicly offering rebates to the public; to keep, in its sales to the public, the shop prices established by the publishers, and not to sell books, against the directions of the publishers, to such book dealers and to the persons buying from them, who had been excluded by the management or the general meeting of members of the said association from using the institutions of the association. If a book dealer was found to have exceeded the permitted rate of rebate—called a "slasher" of prices (schleuderer)—or to have been assisting a "slasher," then the name of the dealer slashing the prices was communicated by circular letter to the members of the association and to those non-members who had signed the publishers' declaration. Under the by-laws of the association, the dealers

14901

14902

Defendants' Exhibit 19a

so listed were not to be allowed any rebate or only a reduced rebate. The plaintiff was, by circular letter of May 20th, 1891, by virtue of a resolution of the management of the association, placed on the list of "slashers," and the name was carried on such list up to November 3rd, 1900 continuously. The plaintiff claimed that the measures taken by the defendant against him contained a sort of proscription in violation of the dictates of *bonos mores*, and sued for an injunction restraining the defendant.

The court says:

14903

"As regards in general the judging of the conduct manifested by the defendant in combatting the so-called slashing of prices, it is necessary, in order to determine what is permissible and what is not permissible, both from the standpoint of the present law and—so far as may be relevant—from that of the present moral conception, to look on the one hand to the purpose pursued by the defendant and on the other to the means chosen by him therefor.

* * * * *

14904

"There can be no doubt that the alleged purpose pursued by the defendant in combatting the so-called slashing of prices, in order to protect the book trade against the books becoming valueless and the other disadvantages resulting from the underbidding by individuals, and through such protection, to enable the smaller dealers also to live, is legally a perfectly permissible and in no way an immoral purpose. In itself it is neither violation of the public order nor of *bonos mores*, if the defendant seeks to attain in good faith the desired pur-

pose by means of associated self-help; namely by imposing not only upon the members of the association, in the articles of association, certain obligations, but also by inducing persons in the same trade outside of the association to participate in the realization of its purposes. Such a combination of traders by way of association or agreement for the purpose of establishing and preserving adequate prices for their products and articles, even if it has the importance of a trade cartel, cannot therefore, in itself, be considered as legally objectionable or morally reprehensible (citing the decisions of February 4, 1897, by the present Division, Vol. 38 Imperial Court Decisions, p. 155, *et seq.*).

14906

"In this respect the conduct of the defendant Exchange Association has not been criticized in the decision of the Second Civil Division of this Court of October 24, 1902, in the Matter of M. & M. against S. & P. It can therefore only be relevant whether the defendant association, in the choice and application of its means of fighting outside of the combination of the trade associates who joined in and with the association, has exceeded the limit of the permissible and has unlawfully trespassed within the sphere of the rights of third parties—in the case at bar of the suing book dealer."

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* * * * *

In examining the means of fight used by the defendant against the so-called slashing of prices, the Court continues:

"In so far as the defendant denied to non-members the use of all institutions and advan-

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tages of the association, to which they had no right, because they would not comply with the stipulations regarding the rebates allowed to customers, and in so far as the defendant imposed on its members in its articles of association the obligation not to make deliveries of publications to such persons against the will of the publisher, its conduct cannot at all be objected to as far as the first proposition is concerned, and as to the second it cannot be objected to, standing alone. In itself, it cannot be denied to a tradesman or to a trade combination to impose on third parties special conditions for the entering into of business transactions or the maintenance of business relations and to refuse delivery of their products or articles, in case of non-compliance therewith. Even if a certain pressure upon the other to induce him to a certain business conduct may be exercised thereby, not every influencing of the free will of another is to be considered as unlawful or immoral. The conduct of the defendant would be morally reprehensible and unlawful according to article 826 of the Civil Code, however, if the measures applied by it, as to their character and intended effect, threatened the party affected thereby in his business existence, in so far as his commercial enterprise would be paralyzed or undermined thereby and his credit or reputation in the business world would be permanently injured. Such an interpretation the Imperial Court in its judgment of June 25th, 1890, has given to the manipulations by which the defendant has inflicted on the slashers of prices a complete stoppage of business.

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"An act if not unlawful by Article 823, would have to be found unlawful by Article 826 of the Civil Code if, in view of the compulsion, those who do not submit to the rebate rules of the defendant would, by reason thereof, be threatened with the severe material disadvantage of a complete stoppage of delivery and with the tying-up of the possibility to trade therewith connected. Such violence to the other people in the trade would conflict with good morals, with the 'ethical feeling of all fairly and just thinking people.' (Citing decision of April 11, 1901, by same Division, Vol. 48, p. 124, *et seq.*)

14912

"Now the defendant did not apply against the plaintiff any measure of the kind above specified up to the present time. Without regarding defendant's exclusion from the supply of the Exchange publication and from the use of Exchange institutions and establishments, only the measure was imposed against the defendant that deliveries should not be made at all or only with reduced discount. This means of combat, whereby the publisher had the choice either not to make deliveries or to make them only with reduced discount, the First discount, the First Civil Division of the Imperial Court in the judgment previously cited—in contradistinction from stoppage of delivery—has held to be unobjectionable.

14913

"The appellant claims that even if one distinguishes between a complete stoppage of the supply and a mere obstruction of the supply of goods, still not every obstruction is permissible; on the contrary it depends upon the degree of obstruction, that is to say, on the amount of the reduction of the rebate. That

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in any event, such reduction of the rebate is unlawful which in fact has the same effect as a stoppage. * * * That the plaintiff has already been injured if brought into such dangerous position even if the result must not follow absolutely.

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"We may concur with appellant that a measure, which though not in form but in its desired effect amounts to a complete stoppage of business would therefore have to be considered as not permissible, and that also in case a choice is left to the publishers to deliver either not at all or only at a reduced discount, it would likewise be unlawful if either the reduction in the discount in conformity with the intention of defendant would no longer leave to the retailer affected thereby any business profit or if the choice is not in fact left to the free discretion of the publishers but, by virtue of the authoritative attitude of the Exchange Association not to deliver, had been fixed in advance. But the plaintiff has not proven that either the one or the other was the case, and the delivery at a reduced discount evidently, in the opinion of the defendant (who believed he should take more stringent measures), did not have the effect to so obstruct the carrying on of the business as to compel the "slasher" to submission."

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* * * * *

"It is true that the defendant has very recently, as appears from its circular of December 2, 1900, attempted to obtain declarations from the publishers, wherein the publishers shall bind themselves not to make deliveries to the firms excluded from the use of the institutions and organizations of the Exchange

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Association, or only at the shop-prices. This new and more stringent measure the Appellate Court below would have considered unlawful because, as we have shown, the retail book-dealers, if receiving the books, at best, at shop prices, could not have sold at all any more with a profit, in other words, would have had to discontinue their business, and because the delivery of books only at shop-prices would amount to a total tying up of their business. We must concur in this view of the lower court; according to what we have stated, the damage caused by the said compulsory measure to those affected thereby would amount to conduct illegal pursuant to Article 826 of the Civil Code."

14919

Decision of March 17, 1904, by the Sixth Civil Division of the Imperial Court, in the Matter of St. (Plaintiff) against Iron Foundry Corporation, formerly K. & Th. (Defendant). Vol. 57 Imperial Court Decisions, pp. 418-432.

(Head-note)

14919

"Exclusion of a workingman by an association of employers. Liability of the one inducing the measure for the damage caused to the workingmen, if the exclusion pursuant to the measures taken by the association, renders it in a far-reaching manner more difficult to obtain work and, compared with the conduct of the workingmen, proves to be an unfair hardship."

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The Court says:

"Decisive is it therefore whether the measures taken by the Association against the plaintiff is an unlawful act, and this must be so held, dissenting from the opinions of the Courts below.

14921

"The Association of Berlin Metal Manufacturers pursued, among others, the purpose to take care of the interests of its members in fights which arise between them and their workingmen over wages and terms of employment, and by united action to procure the victory of the employers (Articles of the Association, Article 1, Nos. 4 & 5). To the institutions destined as means of fight against the employees there belongs also the employment office, provided for in Article 1, No. 3, and Article 23 of the Articles of Association, and organized by special regulations. If in the first place such office may be for the purpose of facilitating the obtaining of a suitable working force for the members and the finding of opportunity of employment for the workingman, it shall also provide to the association the opportunity to exclude individual workingmen from all workshops belonging to the association, if the competent representation of the Association—the confidential commission—should consider it as within the interests of the employers represented by it. * * *

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"The immediate effect of this institution extends, according to the statement of the witness N which was credited by the court below, over about nine-tenths of all establishments of the metal industry existing in Berlin and environs. Indirectly, however, according to the finding

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of the court appealed from, its effect is still more far-reaching. First, the denial or withdrawal of the certificate of identity has also the effect, that it is very difficult and often impossible for the workingman affected thereby to find employment from a factory in Berlin and environs not belonging to the association—the court appealed from mentions six—because they also, as testified to by N., take note of the association, and furthermore a workingman disciplined in such way by reason of the relations which the Berlin Association entertains with the general association of German Metal Manufacturers will not be accepted by an outside factory belonging to such association.

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“The imposition of denial of work therefore has, during its continuation, consequences nearly amounting to a complete exclusion of the workingmen from occupation in a larger business of the metal industry, and therefore with good grounds the question may be asked whether an institution allowing to an association of employers such a prominent interference with the exercise of the working energy of another, and the enforcement of such power, are not to be regarded as violating the law.

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* * * * *

“As the Imperial Court has already held repeatedly, in the battles of commercial competition and especially of the interest and class conflict between employers and employee in wholesale commercial industry, the observance of limits in the pursuance of purposes, justified in themselves, must be demanded in such manner that not only means of fight consisting of illegal acts but also such measures, causing injury to the adversary, as appear unfair and un-

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just according to the generally existing ethical views or under the given circumstances, must be considered as illegal.

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"According to what has been said, based upon the findings of the lower court in reference to the effect of a denial of work by the said association, the measure amounts to a very grave interference with the economical life of the person affected thereby; for it limits and obstructs in the most far-reaching manner the gaining by him of opportunity to work in a trade field which, regarding the numbers of the workingmen therein employed, stands in one of the first ranks; the transition to another commercial field, however, is also, as a rule, connected with great disadvantages for the workingman, who has not received special technical training. * * *

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"Having regard to these facts, it must be considered as a compelling demand of justice and fairness for an association of employers, who enable themselves to give to their measures such a far-reaching effect as is the case with the association in question, that they will, at the utmost, only proceed with the exclusion of an individual workingman for a long period of time or without limitation of time, where very grave delinquencies in his working relation are in question and the same have been established by careful investigation."

Decision of February 2, 1905, by the Sixth Civil Division of the Imperial Court, in the Matter of Gold-beaters Association of Germany and others (Defendants) at the suit of H. & B. (Plaintiffs). Vol. 60 Imperial Court Decisions, pp. 94-106.

(Head-note)

Is it against *bonos mores* (Art. 826, Civil Code) if a large number of people in the same trade unite for the purpose of obtaining more advantageous conditions, if they, however, do not admit into the combination certain traders in the same trade, for the purpose of excluding their competition and thereby make it essentially harder for them to carry on their business? Can such an act against *bonos mores* be found in the fact that a trader or a combination of such, wilfully induces a union of workingmen not to take employment from another man in the same trade, in order to make impossible or obstruct the trade of the latter?

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In the year 1902 negotiations took place in Nurnberg and Schwabach looking towards the regulation of the production, as well as the fixing of certain minimum prices of the gold leaf business. At the same time they attempted to reach an agreement with the workingmen employed in such business, which should thereafter be enforced. The negotiations were successful in both directions. The combination of the manufacturers of gold leaf was organized, and a tariff of wages was entered into between the employers and the employees. In Sections 15 and 16 of the wage tariff, it was provided that the organized male and female employees of the gold leaf trade, could only be employed in the factories having adopted the tariff, and that the members of the combination should not

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this is done for the purpose to make impossible or obstruct the carrying on of the business of such employer and to do away thereby with his competition, then such conduct of the said traders violates not only the principles by which men of noble thought and fine ethical sentiment are guided in business life but it far exceeds what is considered permissible in commercial competition, in the general conscience of the people, and according to the ethical conception of all fair and just thinking men."

14939

Decision of March 6, 1907, by the Imperial Court, Published in "Das Recht" (1907), p. 636. Translation from Report of English Royal Commission on Shipping Rings (1909), Vol II., pp. 218-9.

F. L. Sloman and Company v. Rob. M. Sloman, Jr.,
and others.

Judgment of the Court of the Empire, 6th March,
1907.

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Fritz Loesener Sloman, owner of the firm of F. L. Sloman and Company, was formerly a partner to the firm of Rob. M. Sloman, Jr. In leaving the latter firm he agreed, in order not to compete with the business of the defendant, not to run nor to charter nor to represent as agent any steam or sailing vessel between the Elbe and/or Antwerp and the ports within the continent or islands of Australia. This agreement was made on the 10th of March, 1904.

At the time when plaintiff was still a partner to the defendants' firm, they, together with the two other defendants, namely, the German-Australian Steam-

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ship Line, Hamburg, and the North German Lloyd Bremen, had agreed to grant a rebate upon the freight of 10 per cent payable six months after the close of every half-year, to those shippers who had shipped their goods from the Continent, between Hamburg and Havre, both ports included, to the aforesaid Australian ports exclusively in the ships of the defendants. Fritz Loesener Sloman, after leaving the firm of Rob. M. Sloman, Jr., established, under the style and name of F. L. Sloman and Company, in Hamburg a ship-owner's and shipbroker's business, and opened in the beginning of 1905 a new sailing line between Bremen and Australia; of this he informed the shippers on the 19th January, 1905. The defendants, thereupon, wrote to their shippers that a rebate would no longer be granted to those who shipped their goods from the Continent, between Hamburg and Havre, to the Australian ports in sailing vessels not belonging to Rob. M. Sloman, Jr., plaintiff, thereupon, changed the port of sailing of his vessels from Hamburg to Tönning—a port not lying between Hamburg and Havre—in order thus to avoid any loss to his shippers upon the rebate for goods shipped in the defendant's vessels. Plaintiff gave notice hereof on the 2nd March, 1905. The defendants now altered their position and, through notice issued in the course of March, refused to grant a rebate to shippers who shipped goods in other vessels than those belonging to the defendants from ports lying between Memel and Havre.

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Plaintiff contends that this alteration in their system of granting rebates was introduced by defendants for the sole purpose of disabling the plaintiff to run his sailing vessels from Tönning to Australia and thus to compete with the defendants, that this interference with his (the plaintiff's) business was, in virtue of Civil Code, ss. 823 and 826, illegal, and, as showing the intention to exclude any and all compe-

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tition, also against public policy; that, therefore, the defendants should be forbidden by an order of the Court to make the granting of a freight rebate dependent upon the fact of the shippers not having shipped any goods in other than the defendants' vessels at any port lying between Memel and Hamburg.

14945

Defendants objected on the ground that their action, although it interfered with plaintiff's business, did not altogether prevent the plaintiff from continuing the same. The reasons adduced in a former judgment of the Court of the Empire (Volume 56, page 271 fg) for invalidating an action as being against public policy did, therefore, not apply, because plaintiff was not prevented from doing his business altogether. As long as plaintiff was partner to Rob. M. Sloman, Jr., he never objected to the rebate system, the benefit of which he then enjoyed. The system of granting rebates had been introduced merely for the purpose of protecting one's self against irregular competition and of keeping rates of freight steady. It was a well-known fact that shipping customers throughout the world were rewarded by a granting of rebates upon the freight due from them. The action of the defendants had not been directed solely against plaintiff, who, indeed, by running the new line, made himself guilty of breach of contract and of an unfair competition, but against any other competitors as well. Plaintiff did not suffer any damage, as was shown by a circular issued by him on the 2nd June, 1905, in which he boasted of the excellent business done by the new line. It was not the defendant who interfered with the plaintiff, but the plaintiff who interfered with the business of the defendant by running the new line with the sole purpose of being bought up by the defendant.

14946

Defendant No. 1 (Rob. M. Sloman, Jr.), lodged a counterclaim to the effect that by an order of the

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Court plaintiff should be forbidden to send ships from Tönning or any other port on the west coast of Schleswig-Holstein to Australia and to send for goods from Hamburg or ports between Hamburg and Havre or to pile up goods at Hamburg for the purpose of these goods being carried to Tönning and there to be shipped in the vessels as aforesaid—also that plaintiff should pay on account of damages the sum of £5,300.

In support of this counterclaim the defendant relied upon the agreement of 10th March, 1904, referred to above, according to which, if rightly understood, plaintiff was checked in competing with the defendant's firm. If section 2 of this agreement only mentioned the Elbe and/or Antwerp, this was due to the fact that the ships of the two other defendants called at these places—it was meant, however, to cover the whole sphere of action or all three defendants between Hamburg and Antwerp. Plaintiff knew that Rob. M. Sleman, Jr., carried on a regular trade via Antwerp, Rotterdam, and Bremen; and precisely in consideration for not entering into competition with this firm, £5,000 in cash and 10 yearly payments of £2,500 cash were granted to him in the said agreement. Even if it was meant to exclude only the ports on the Elbe and Antwerp, plaintiff had broken the agreement not only by choosing Bremen, but far more by choosing Tönning to be the port of shipment. It was not so much the port from which the ship sailed, but the places where the goods were brought together in order to be shipped to Australia, which were meant to be covered by the agreement. The goods were actually ordered to Hamburg, where they were stored at the Export and Lagerhaus Company, this company forwarding the goods by special steamer to Tönning. And, indeed, plaintiff himself advertised as taking goods for trans-shipment at Hamburg. This, however, was tantamount to carrying goods

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straight away from Hamburg. Plaintiff had twice already broken the agreement as was shown by the award of a Court of Arbitration settled in the month of August, 1905. Plaintiff, through his illegal proceedings, had forced the defendant to lower the rates of freight to a considerable extent, and had caused a great reduction in the amount of goods shipped by the defendant. If plaintiff had not entered into this illegal competition, defendant would have been able to run five more sailing vessels and to earn £5,300 more on account of freight, because, without the action of the plaintiff, the rates of freight would not have suffered any change since the time at which plaintiff left the firm of the defendant.

14952

Plaintiff replied: Owing to the system of granting rebates, such high rates of freight were obtained that German shippers could no longer compete with foreign shippers who had to pay much less. The agreement made between the defendants aimed at keeping up the rates of freight due for carrying goods in sailing vessels. Plaintiff, on the other hand, tried to ameliorate the position of this trade and, for this purpose selected Tönning as port of shipment, as this port was so favorably situated that, in spite of the additional freight for carrying the goods to this port, plaintiff was able to carry on a profitable business by charging less freight than the defendant. Plaintiff never thought of compelling the defendant to come to terms with him, his sole aim being to promote the sailing vessel trade. On the other hand, the measures taken by the defendant had no reasonable cause in the relations existing between him and his shippers, but were meant solely as a blow dealt against the plaintiff.

As regards the counterclaim of the defendant, the term "from the Elbe and/or Antwerp," contained in Section 2 of the agreement between plaintiff and de-

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fendant, was sufficiently clear so as to give no plausible reason for extending the meaning thereof beyond what it actually said; this was clearly shown by the wording of sub-sections *a*, *b* and *c* of Section 2.

Plaintiff would never have given his consent to being wholly excluded from the Australian trade. There was no breach of contract in the fact of plaintiff ordering goods to be sent to Hamburg, there to be warehoused and thence to be carried to Tönning. The differences settled by arbitration and referred to in the pleadings of the defendant, showed no bad faith on the part of the plaintiff. Plaintiff refused to acknowledge any damage having been caused to the defendant by his dealings.

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Defendant replied: That the agreement entered into between him and the two other defendants was in no way meant to be a measure for doing harm to or even suppressing the sailing vessel trade to Australia.

The claim of the plaintiff and the counterclaim of the defendant were both rejected by judgment of the High Court of Appeal, confirming the judgment below. Both parties appealed to the Court of the Empire—this appeal, however, was dismissed for the following reasons:

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Plaintiff founds his claim on Civil Code, section 826. This section rules that whoever, through an action which is *contra bonos mores* (against public policy), and intentionally causes damage to arise, has to pay for it. The dealings of the defendant cannot, however, be said to be of such a kind. In plaintiff's opinion, the defendant unlawfully interferes with his business by granting a rebate of 10 per cent on the ordinary freight only upon condition that a shipper has, within a certain time, not shipped any goods from ports lying between Memel and Havre to the

- Australian ports in any ship not belonging to or not authorized by the defendants, and that this fact had been notified to the defendant by sending him a schedule to be filled out for this purpose. This opinion is wrong. For, apart from the fact that the range of shipping ports was afterwards extended, the system of granting rebates had already been introduced at the time when plaintiff was still a member of the firm of the defendant, and plaintiff himself had, at that time, reaped the benefit of it. By granting a rebate the defendants wished to reward shippers for constantly employing the defendant's ships and for the undertaking to ship their goods exclusively—for a certain period—either in steamers belonging to the German-Australian Steamship Line or to the North German Lloyd or with the sailing vessels belonging to or authorized by the defendant. Every shipowner is at liberty to fix the rates of freight, at which he undertakes to carry goods, at his pleasure; he is perfectly free to lower the rates of freight below the amount fixed by competing lines; he may also grant any favour he likes to shippers, who employ no other ships but these belonging to him, thereby enabling him to count with a regular supply of goods and thus to ensure a steady business and to make the best advantage possible of his ships.
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- 14958
- It is only fair, if the defendant, by granting rebates, rewards the shippers for the services done to him in exclusively using for a certain length of time his ships for transporting their goods and thereby effectually furthering his business. It stands to reason, that such favours granted to customers of an old and well established business make it very difficult for a young business of a similar kind to compete with the older one, the more so, the greater the favour is, the older business is able to confer upon its customers. But this does not lead to establish the illegality of a measure which, indeed, is necessary in order to procure

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customers and to ensure a regular supply of goods, without which no business can prosperously be carried on. There is, moreover, no provision in the law which could be adduced as sanctioning the opinion of the plaintiff, that such measures were *contra bonos mores* (against public policy), and, therefore, gave rise to an action for damages. Plaintiff refers in his pleadings, in support of his view, to a judgment of the Court of the Empire delivered on 11th April, 1901.

The facts of this case, however, were quite different from those of the present one. In the case referred to, measures had been taken by a shipowner in order to compel a shipper, who shipped his goods with a competing line, to submit to the conditions imposed by the former; the shipper had even been warned that, unless he yielded to the pressure brought to bear upon him, he would be charged a higher rate of freight than the one at which the owner had advertised that he would carry on his business. In the present case, however, there is no question of a measure taken in order to impose upon the plaintiff a certain line of conduct and to carry on his business to his own free will and pleasure. The notice, of which the plaintiff complains, has been addressed to all shippers, without any distinction, and offers them, without in the least compelling them to accept the offer, certain advantages, if they for a certain length of time would forego their right of choosing in every case the cheapest route, and would ship their goods exclusively in ships belonging to the defendant. This notice, addressed to the shippers of the defendant, in no way affects a right or a title belonging to the plaintiff.

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Another argument of the plaintiff is to the effect that, through the aforesaid measures, the defendant intends monopolizing the trade between German ports and Australia and that, as a matter of fact, he already does so, that the agreement made between the several

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defendants purports to keep up the rates of freight for sailing vessels in order to gradually diminish the sailing trade, a measure hostile to the interests of the whole nation. Even, if this were so, and the measures taken by the defendant would actually lead to a reduction in the trade of sailing vessels, no provision in the law could be found preventing the defendant from granting rebates to his shippers in the manner he did. This last point is the only one in question, viz: is the defendant allowed or is he forbidden to grant a rebate to his shippers? And, if plaintiff now alleges that the defendant has monopolized the German-Australian trade, this is at variance with plaintiff's own words, as shown in a notice he sent to his shippers shortly before going into Court. In this notice, dated June, 1905, plaintiff declares that the new line he established between Tönning and Australia prospered so well as to enable him to send three more first-class sailing vessels out before the 15th of August; that the lively and effectual assistance given to him by the shippers ensured a steady and prosperous business, and that he had reason to hope that shippers would gradually become aware of the fact how much more sailing vessels were to be preferred to steamships on account of the great difference in freight. And,

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also, in the course of the proceedings when urged by the defendant that his new line did not yield any profit but had merely been established in *fraudem contractus*, plaintiff had repeatedly asserted that, although he had to content himself with a smaller profit as compared with the defendant he, nevertheless, did a good business, because there was, on account of the lower rates of freight, such a supply of goods that the extra freight for carrying them to Tönning did not enter into consideration. It appears from these statements, made by the plaintiff himself that, at least for the present moment, there is no question of the defendant having monopolized the German-Australian trade.

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For the foregoing reasons the claim of the plaintiff must be dismissed.

As regards the counterclaim of the defendant, the Courts below were right in holding that clause (2) of the agreement of 10th March, 1904, does not suffer of an extensive interpretation. Defendant, when entering upon this agreement, was well aware of the fact that the plaintiff was going to establish a line in competition with the one of the defendant. Precisely in view of this fact, defendant imposed certain restrictions upon the plaintiff with reference to the latter's sphere of action. These restrictions, as contained in clause 2 of the said agreement, are to the effect that plaintiff shall neither own nor charter nor represent as agent any steamer or sailing vessel carrying goods from the Elbe and/or Antwerp to the continent or islands of Australia. If two experienced merchants enter into such an agreement they are expected to know what they write and to exactly state what they want. It would, therefore, be wrong to interpret the agreement beyond the actual meaning of the terms the parties chose to employ. Hence it follows that plaintiff did not commit a breach of contract by establishing a shipping port at Tönning at the mouth of the Eider. For these reasons the counterclaim of the defendant appears to be unfounded and must be dismissed accordingly.

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Decision of January 2, 1909, by the First Civil Division of the Imperial Court, in the Matter of the Iron Smelting Works Th. (Plaintiff) against Selling Agency of the United Enamel Works (corporation with limited liability) and others (Defendants), Vol. 70, Imperial Court Decisions, pp. 165-170.

(Head-note)

14969

Can the members of a selling syndicate, if a certain kind of business becomes more profitable than other business, during the existence of the syndicate, demand that they participate therein in accordance with their percentage in the syndicate?

14970

Certain manufacturers made a syndicate agreement, for the purpose of regulating the sale, and to prevent over-production, having a common selling office in Berlin, the selling office having been incorporated. The members waived the right to sell their own manufactured articles, and the selling corporation acted in its own name, and ordered the goods from the members. Each member received a certain share in the entire production. One of the members, the plaintiff, brings suit for Mk. 25,000, claiming that its interests were injured as far as deliveries to countries outside of Germany are concerned. Originally the foreign and inland sales were equally profitable. Later on the sales to foreign countries became more profitable. It is claimed that therefore the defendant, the selling corporation, was obliged to divide the more profitable transactions equally among the members.

The Court says:

"As in every cartel, the parties to the contract of April 7, 1900, remained independent as far as their manufacturing is concerned. As

compensation for their deliveries, they received a purchase price and not a share in the profits. Nevertheless, they were united in a community of interest also by allotment of the prices and production. The influence on the market conditions achieved thereby was a common advantage for all members for which they undertook to restrict their free competition. It is consonant with the character of every community of interest that the advantages gained will inure to the benefit of the individual associate in the proportion of his interest in the community (see also article 743, Subd. 1 of the Civil Code). The larger the amount of the percentages of a cartel member is, the greater benefit he will derive as a matter of principle, from the combination. If therefore, in a selling syndicate, higher prices are introduced for a certain class of business, it follows from the nature of the thing that the individual members are entitled to participate in proportion to their percentages.

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"Provisions of the agreement in the case at bar, which could exclude or modify the above inferences which are presented, are not apparent. Pursuant to Section 21 of the syndicate agreement the defendant (Purchasing Agency) was allowed to establish under-prices for certain manufactures if it considered it necessary for the fighting of the competition; for the loss which the member making the delivery thereby suffered, the latter should be compensated by the others in proportion to their percentages."

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The Imperial Court dissented from the decision of the lower courts.

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Decision of February 16, 1909, by the Seventh Civil Division of the Imperial Court, in the Matter of the Prussian Treasury (Defendant), at the suit of the Mine M. St. (Plaintiff), Vol. 70, Imperial Decisions, pp. 283-8.

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In this decision, the Imperial Court also recognized the validity of the Rheinisch-Westphalen Coal Syndicate, as a matter of course. The decision involves a question of taxation, in case of the sale of a coal mine. According to Article I, subdivision 1, of the syndicate agreement, the members sold their entire production of coal, coke and briquets to the syndicate, with certain exceptions, the syndicate in turn binding itself to receive and to sell the same on terms stipulated. The sale of coal fields and mines to non-members was subject to the approval of the meeting of the mine owners, which approval had to be given in case of assurance of performance of duties by the new member.

See decision of February 19, 1901, *supra*.

14976

Decision of May 13, 1909, by the Sixth Civil Division of the Imperial Court, in the Matter of F. & Co. (Defendants), at the suit of G. (Plaintiff), Vol. 71, Imperial Court Decisions, pp. 170-3.

(Head-note)

Solicitation (by A) to the suppliers (B) of a merchant (C) not to deliver to him (C) any more, under threat (by A) of breaking off his business relations (with B). Is a transaction, permissible in itself and performed in the exercise of a lawful right, violative of *bonos mores*, if it is influenced also by an immoral motive.

The plaintiff joined the purchasing combination established by the defendant and procured goods through the latter from various firms; the defendant had assumed towards these firms the *del credere* up to a certain amount (that is to say had guaranteed these firms payment by the plaintiff). As compensation the plaintiff had to pay a commission of three per cent to the purchasing combination. After the plaintiff had paid the credits allowed defendant, the latter dissolved his business connection with that combination and entered into direct relations with the said firms. This business connection was dissolved at the instigation of the defendant because the latter put the firms making the deliveries to the alternative of either continuing business with him or of not delivering to plaintiff.

14978

The plaintiff claimed in the suit that the conduct of the defendant violated *bonos mores*, as defendant solely intended to damage him; that such purpose was realized by defendant because plaintiff had to look for other sources of supply and that he could only obtain credit from them gradually.

The Court says:

"The appellant urged error (in the court appealed from), regarding the meaning of *bonos mores*; if the defendant, as the court appealed from correctly held, had a legal right to establish the firm of R. B. in Fr., then a further examination of his different business motives appeared irrelevant, and if the act of the defendant in itself did not violate *bonos mores*, then his act could not become unlawful by reason of his alleged reprehensible motive of conduct, viz: according to the opinion of the court appealed from, his controlling desire for revenge.

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"The appeal is justified. According to the facts found by the court below a conduct against *bonos mores* on the part of the defendant cannot be assumed. The court below does not overlook that the defendant pursued his own legal right, if after terminating the commercial relations with plaintiff he entered into connections with another firm in Fr. and received the latter into the purchasing combination, in order to make the same profit in the future as he had made through the former connections. * * * The successful exercise of individual commercial rights as a rule will be connected with damage to the competitors and knowledge of such injury alone cannot justify the assumption that the exercise of such right violates *bonos mores*. No objections, therefore, can be raised against the method employed by the defendant. It is true, according to the opinion of the court below, that the defendant in his procedure was also actuated by an immoral motive, namely by the intention arising from a sentiment of revenge to damage plaintiff, but such motive, however strongly it may have influenced the defendant, cannot turn the scale, in view of the exercise of a legal right. If an act is permissible and not illegal and if it is done in pursuance of a lawful right, then the act does not become a violation of *bonos mores*, if at the same time it is influenced by an immoral motive."

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14983

Decision of June 7, 1910, by the Second Civil Division of the Imperial Court, in the Matter of Earthenware Industry W. (Plaintiff) against Wurttemberg Business Agency for Roof Tiles (corporation with limited liability), (Defendant). Vol. 73, Imperial Court Decisions, pp. 429-434.

(Head-note)

1. Influence of the illegality of an arbitration provision in articles of association of a cartel organized in the form of an association with limited liability.
2. Limits of the liability of a member of the cartel association; especially exclusion of the right to withdraw.

14984

The Articles of the Association of January 25th, 1905, provided that the combination, through a corporation, shall have the sole sale of roofing materials, with the exception of certain articles, and also the right to manufacture the same alone within certain Wurttemberg districts, and that it shall buy the roofing materials from the associates on the basis of certain percentages. The purchasing prices and selling prices are to be fixed every year by the associates. However, the selling prices may be changed at any time by the directors. The associates are forbidden, under penalties, to themselves sell roofing material within the territory exempted. On this basis, the by-laws of the company contain detailed provisions in reference to the fixing of prices, the acquisition of property, the accounting between the members, the adjustment of surplus deliveries, regarding the refusal of delivery, times of delivery, etc.

14985

In Article 63 of the articles of association it was provided that the directors or a commission delegated

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by them should, as an arbitration court, decide all controversies.

The plaintiff brought suit against the defendant asking the Court to adjudge that certain obligations imposed in articles 39 to 63 of the articles of association became extinct by its notice of withdrawal.

The Court says:

14987

"Defendant's demand is based on the allegation that a cartel could not be organized as an association with limited liability; that the articles 39 to 63 should be adjudged void because their not being restricted in time was violative of *bonos mores*; * * * that the article 63, especially violates further the principle that a party could not be judge in its own matter; that if article 63 is void, then as a matter of course the entire articles of association are void according to article 139 of the Civil Code.

* * *

14988

"The invalidity of the arbitration provision and therefore of article 63 of the articles of association has been adjudicated in the Court below. * * * The arbitration provision of article 63 does not belong to the essential provisions of the articles of association and therefore the latter are not affected by this article.

"The Court below denies that the articles of association violate *bonos mores*; for an illegal restriction of the members could not be found in the articles; all single provisions are such as the purpose of the cartel necessarily carries with it. The restrictions to which the members had subjected their business are in correct proportion with the advantages derived from their combination. That no right of withdrawal is allowed to the associates is consonant with an

association with limited liability and in itself is not sufficient to warrant the assumption of an excessive restriction of liberty.

"There is nothing before us of which the plaintiff could complain. The plaintiff found the cartel only inconvenient after it raised its production. We cannot hold that the Court below has violated any law."

Decision of April 13, 1912, by the Sixth Civil Division of the Imperial Court, in the Matter of B. (Plaintiff) against the Electrical Works E. (Defendant). Vol. 79, Imperial Court Decisions, pp. 224-230.

14990

Legal position of electrical overland stations. Unlawful interference with the trade of another.

The plaintiff carries on an establishment for the installation of electrical lines as well as the sale of the articles necessary thereto. The defendant carries on a central electrical station from which it delivers electricity for illumination for a number of communities surrounding its place of business. The plaintiff has entered into agreements with a restricted number of installation firms by the terms of which it gave to them "the sole right to make connections in houses, the delivery of motors and other current consumers, with all otherwise acquired appurtenance for installations which shall become connected with their wire system," for certain designated places, reserving to itself, however, the right to make installations itself in its own discretion.

14991

With the wire system of the defendant also the villages N. and T. were connected. After several inhabitants of these villages had applied to the plaintiff

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for making the connection and for making of the delivery therefor required, he asked the defendant on June 17, 1910, for its conditions of connection but received the answer that the defendant only would operate plants that were built for the installators commissioned by it. The plaintiff claims that such business conduct by the defendant will lead to a complete elimination of free competition and to an actual monopoly by the defendant as to the installation and apparatus; that such interference with this business was in violation of article 10 of the Trade Law and in violation of *bonos mores*.

14993

The complaint and the appeal were dismissed.
The Court says:

14994

"According to the established rulings of the Sixth Division of this Court, an illegal interference with the business of another can only be assumed if the act is directly aimed against the existence of the business, if its conduct actually is impeded or its legal existence denied and if its closing or restriction is demanded; not, however, if the act of another only disadvantageously influences the income of the business (citing decision of the Imperial Court in Civil Matters, Vol. 77, page 217, *et seq.*) *
* * The defendant does not prevent the plaintiff from undertaking installation work in the buildings whose owners desire connection with defendant's lighting system, nor from delivering to them the necessary materials. Defendant's acts have only the result, by denying delivery of electrical current to such persons, that they do not entrust the plaintiff with the installation work and the delivery of the material. This is not an immediate interference with the trade of the plaintiff but only an un-

favorable influence on the income of his business. From the standpoint of the Trade Law, it is absolutely in the discretion of the defendant to whom and under what conditions it will deliver an electrical current produced by it, as it is generally in the discretion of any trader whether he will enter into purchase or other contracts and with whom and under what conditions.

* * * * *

"If * * * the defendant in a way exercises an actual monopoly regarding the delivery of electrical current, and if the traders doing the business of electrical installations and the delivery of apparatus and motors are essentially injured in their commercial activities by the business methods of defendant, then from the standpoint of the present trade legislation no remedy can be had in law.

14996

* * * * *

"It is true that, considering the actual monopoly of the defendant regarding the delivery of electrical current and the great economical importance of electricity also for the individual, it would be an abuse of the liberty of trade violating *bonos mores* if the defendant should impose upon the consumers unfair and unreasonable conditions. The Courts below have correctly found that this is not the case. The consumers of the electrical current have as a rule no interest in the person of the electrical installer if they are only well served and for adequate prices. But the defendant has an essential interest to have the work of wiring done in a good and reliable manner, as defective work would interfere with its own business."

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Decision of July 12, 1912, by the Third Civil Division of the Imperial Court. Reported in Deutsches Juriste Zeitsung of Nov. 15, 1912, No. 22, p. 1410.

Claims of the several associates arising out of Syndicate Agreement. Secs. 718, following, Civil Code do not apply.

14999

By a Syndicate Agreement of February 22, 1906, the parties have agreed with each other not to undertake certain work in building streets in Berlin and its suburbs, under penalty of Mk. 5 for each square meter, at a cheaper price than provided in a contract made with the City of Berlin. According to the allegations of the defendant, the plaintiff violated this agreement by doing certain work in Schoneberg at a lower price, and thereby he forfeited a penalty of at least Mk. 40,000. The defendants interposed a counterclaim each asking for the payment of his share. The plaintiff prayed to have it adjudged that the defendants are not authorized to demand the penalty, and that each *individual* associate to the agreement is not authorized to make any demand under the contract. The plaintiff's demand was dismissed, and the counterclaim was allowed. The appeal is rejected.

15000

The Court held:

By the agreement a syndicate was established with the main purpose that the participants shall not work below certain prices. A common organization and common property did not exist; also the penalties were not to go into the common funds, but should be divided among the different participants of the syndicate. That the agreement does not establish an association, though, as far as its objects are concerned, they are similar to the objects of an association. Therefore, the provisions regarding the funds of an

Association, Secs. 718 following of the Civil Code, are not applicable. The participants were already, during the existence of the relationship created by the agreement, each individually entitled to ask his share in the penalty from the party violating the agreement.

Provisions in The German Unfair Competition Law of June 7, 1909, amending the law of May 27, 1896. (Imperial Laws, 1909, p. 499.)

Sect. 1. Whoever does any acts, in business relations for the purposes of competition, that violate *bonos mores* can be enjoined and is liable for damages.

15002

Sect. 3. Whoever, in public announcements or in notifications designed for a larger circle of persons, makes incorrect statements in reference to business relations, especially the quality, the origin, the method of production or the computation of prices of goods or trade services, in reference to the manner of obtaining and the source of obtaining the goods, in reference to the possession of marks of distinction, in reference to the reason or the purpose of the sale or in reference to the quantity of goods in stock, can be enjoined from making them, if they are apt to create the appearance of a particularly favorable offer.

15003

Sect. 4 provides that if the statements mentioned in section 3 are made with the intent to create the appearance of an especially favorable offer, and such statements are knowingly untrue and apt to mislead, then the party making them will be punished by imprisonment not exceeding one year or with a fine not exceeding 5,000 marks, or both. If such statements

15004

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are made by an employee or attorney, then the owner or manager of the business, if the act was done with his knowledge, is punishable with the employee or attorney.

15005

Sect. 12. Whoever, in business relations for the purpose of competition, shall make, promise or give presents or other advantages to an employee or other representative of a business for the purpose of obtaining a benefit for himself or another, through the unfair conduct of such employee or representative, shall be punished with imprisonment not exceeding one year or with a fine not exceeding 5,000 marks, or both.

The employee or representative of the business shall be punished likewise. The advantage received shall be forfeited to the State.

15006

Sect. 14. Whoever, for the purposes of competition, makes or publishes statements regarding the business of another, the person of the owner or manager of the business, the goods or commercial services of another, shall be liable to make good the damage caused thereby, if such statements injure the business or credit of the owner and if such statements cannot be proven to be true. The person injured can also enjoin the making and publication of such facts.

Sect. 15. If the statements referred to in section 14 are known to be untrue to the party making the same and are made for the purpose of damaging the business, then the party making the same shall be punished not exceeding one year or by a fine not exceeding 5,000 marks, or both.

Section 17 prohibits and punishes the publication of business and trade secrets.

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15007

(Translation.)

The Emigration Law of the German Empire
Of June 9th 1897

Together with

Rules for its enforcement.

Interpretation obtained from official sources by

P. Goetsch,

Imperial Privy Councillor And Reciting Counsel
In The Foreign Office.

15008

Second Edition.

Berlin

Carl Heymann's Publishing House.

1907

SUPPLEMENT O.

REGULATIONS FOR THROUGH TRAVEL.

1. *Control of Travellers in Transit.*

In the interests of security and peace to the Prussian State, both from police and hygienic viewpoints, it has been found necessary to issue certain rules and regulations for controlling the through journeying of the lower class of foreign emigrants.

15009

This necessity arose chiefly from the fact, that the great majority of Non-German emigrants travelling through Prussia, came from countries where the sanitary police organization was defective, and furthermore because of the fact, that most of such emigrants were bound for North America, where severe laws with relation to the financial status and health of immigrants were especially likely to result in their re-

Defendants' Exhibit 20

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jection and return, thus eventually burdening Prussian charitable institutions.

The legal aspects governing the issuance of the rules and regulations in question, are as follows:

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International law recognizes the principle, that, in the interest of maintaining its own security and peace, every state has the right to forbid aliens to enter upon its territory. (See von Liszt's "International Law"—3rd edition, 1904, page 199.) This principle has always been upheld by Prussian legislation and administration. (See Rönne's "Constitutional Law"—1884, Vol. III, Article 284.) It finds specific legal support in the provisions of the "General Civil Code"—Article 10, Part II, Paragraph 17, viz: "The adoption of the necessary measures for the preservation of public peace, safety and order, and for the avoidance of danger which may threaten the public, either jointly or severally, are functions of the police."

15012

Although the empire has not curtailed the functions of the police forces of the component states, according to Article IIII of the Constitution of the Empire, the police for the supervision of foreigners is really placed under the control and legislation of the Empire. The "Friezügigkeitsgesetz," (the law, granting to citizens of German states freedom to move to and live in any other state of the Empire) of November 1st, 1867, in particular has regulated the authority of the several states to expel persons so far as German subjects are concerned. For Non-Germans, however, the supervisory police regulations have remained, as they existed heretofore. Furthermore, the Passport Law of October 12th, 1867, and the Emigration Law of June 9th, 1897, do not interfere with these powers. Finally the Law of the Empire concerning epidemics, of June 30th, 1900, in Articles 11 and 24, for the express purpose of preventing the entrance and spread of diseases dangerous to the common welfare, explicitly deter-

mines the power of the police authorities to prohibit or to restrict the admission into, or the travelling through, their territory of Non-Germans, coming from countries in which such diseases exist; this however does not in any way curtail the functions and powers of the separate states pertaining to this matter. No treaty or agreement of the empire having been made with any foreign state which contains such curtailment, the Prussian Government to this day has the right, power and authority to prohibit the admission into its territory of any Non-German whatsoever. This right of exclusion naturally and obviously includes the right, power and authority to make the admission of foreigners conditional upon compliance with certain demands, rules and regulations. These stipulations governing border traffic on the Prusso-Russian boundary line differ somewhat from those controlling such traffic on the Prusso-Austrian frontier.

15014

I. Prusso-Russian Frontier Traffic.

1. Former Status.

A. Traffic to North America.

15015

Transit traffic of emigrants coming from Russia, and desirous of crossing Prussia on their way to North America, was heretofore subject to regulations (see edict of the Minister of the Interior of October 8th, 1893) as follows:

In order to obtain permission to cross the frontier, through travelers must possess:

- a) A proper legal passport;
- b) A cabin ticket to North America, and

15016

Defendants' Exhibit 20

c) Sufficient money; viz: for normal persons in good health, over 10 years of age, 400 marks; for such, under 10 years, 100 Marks.

15017

Exemption from the provision regarding possession of the necessary funds, was extended only to such emigrants who could produce a cabin ticket for passage to North America, issued by a German steamship company, as well as a railroad ticket to the port of embarkation, or a guarantee issued by the German Central Committee for Russian Jews, that the person would be forwarded to North America without delay in Germany, and that, in case of their being returned from North America, they would be sent back to their homes. If the above stipulations were not complied with, transit through Prussian state territory was permitted (Edict of September 18th, 1894), only in case the emigrant passed through a control station. The establishment of such control stations as would serve the purposes of the sanitary, charity and peace police, was pledged by the two great German steamship companies, the North German Lloyd and the Hamburg-American Line. These companies, furthermore, jointly had guaranteed the payment of all expenses arising to the state, the several communities, or the charity organizations on account of transportation, maintenance, treatment and possible burial of transit travellers who had been admitted to control stations, either on their way to or on their return from North America, the latter, in the event of rejection and deportation.

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At these control stations, through travellers must be registered and medically examined, their luggage and effects must be disinfected and the sick isolated. Forwarding to the port of embarkation must, if possible, be made in complete groups or bodies, either by special emigrant trains or special emigrant cars at-

tached to other trains. The forwarding is the business of the German steamship companies and should as a rule be effected via Ruhleben. Thus far, control stations have been established at Bajohren, Tilsit, Eydtkuhnen, Insterburg, Prostken, Illowo, Ottlotschin, Posen, Ostrowo and Ruhleben.

The cost of the erection and maintenance of these stations will be borne jointly by the North German Lloyd and the Hamburg-American Line. Nevertheless, all of these stations are under strict state supervision, and therefore are endowed with the character of state police institutions.

The functions of the agents of the German steamship companies employed at the control stations have their legal basis in the Emigration Law. This stipulates compulsory agencies, viz: the licensed emigration contractor in the conduct of his enterprise, is compelled to employ agents outside of the commonwealth or town of his industrial establishment, and outside of the boundary lines of the commonwealths or towns of his possible branches (Emigration Law, Article 8).

According to Article 11 of that law, all persons, who desire professionally to take part in the business conduct of an emigration enterprise by the preparation, mediation or closing of the transportation contract (agents) require a license. This licensing is a function of the state, the permit will be issued by the upper branch of the Administration (Emigration Law, Article 12). The permit granted the agent may at any time be curtailed or withdrawn and must be withdrawn under certain conditions, namely in the event that the agent is found unreliable in the executions of his functions (Emigration Law, Article 18).

The edict of the Imperial Advisory Board of March 14th, 1898, contains additional specific rules and regulations for the guidance of the business conduct of agents throughout the empire. This edict stipulates

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the details of the transportation contract to be entered into with the emigrant. Supplementing this, Prussia has issued the following orders for the supervision of agents:

Agents at the control stations are instructed not to sell tickets to Russian emigrants, unless they previously have been properly examined, disinfected, and passed at the control stations.

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At the frontier crossings connected with the control stations (railway stations) agents are employed for the purpose of designating those arriving emigrants, whose further transportation will be assumed by the steamship lines. (Decree of the Prussian Government to the steamship companies of September 18th, 1894.)

Only judicious, prudent and tactful persons with a command of languages are to be employed as such agents. (Decree of the Ministry of the Interior to the Administrative Presidents of Governmental Districts, of March 14th, 1903.)

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No official authority is vested in these agents, and any attempt on their part to assume such, must promptly and decisively be stopped by the police representatives. On the other hand, all efforts of the agents to comply with the regulations, are to be aided in every possible way, and the police authorities must take efficient action whenever emigrants attempt to avoid the fulfillment of these rules and regulations.

In addition to the preceding, there are in effect a number of rules and regulations for the purpose of preventing misunderstanding and inconvenience in the treatment of emigrants in transit. For this reason there should be employed as border police none but judicious, prudent and tactful officials, possessing so far as possible sufficient knowledge of languages to enable them to consult with these travellers. (Decree of the Minister of the Interior, of March 14th, 1903.)

The same decree orders that complaints to the police made by emigrants in transit, concerning their treatment at the control stations, be reported immediately, if necessary by telegraph, to the superior authorities, who then must investigate the facts for themselves and render their decision in accordance with the result of their investigation. All complaints must be recorded in the journals, kept for the registration of through emigrants.

Emigrants in transit, who have succeeded in crossing the frontier, without complying with the preceding stipulations, by decree of the Minister of Public Works, of January 16th, 1896, and of the Ministry of the Interior, of January 16th, 1896, are permitted to continue their voyage only, if they are willing to purchase transportation to Ruhleben, there to pass that control station. In the event of refusal to comply with this, such travellers are to be returned to the Russian frontier, if necessary by force, in accordance with the Russo-German Agreement governing border traffic, of February 10th, 1894.

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B. Traffic to England.

By joint decree of the Imperial Ministers of Education, of the Interior, of Commerce and of Public Works, of March 14th, 1903, the preceding rules and regulations were extended to cover also through traffic of Russian emigrants bound for England, modified only with respect to the amount of cash required by passengers at 100 Marks each for normal persons in good health over 10 years and at 50 Marks for those under 10 years of age.

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*Defendants' Exhibit 20**2. Present Status.*

The rules and regulations governing the Prusso-Russian border traffic have recently been altered as follows:

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Admission to Prussian state territory is to be granted only if the emigrant is provided with a proper legal passport, a passenger contract to a Non-German port of departure, issued by a steamship company licensed in Germany, a railroad ticket to the port of embarkation, and an amount of money, sufficient either to insure admission of the passenger to the country of his or her destination, or to pay for return passage to his or her home, in case of rejection there. This amount has been fixed at 400 Marks for each normal person in good health, of 10 years and over, and at 100 Marks for those under 10 years.

Non-German emigrants not complying with these stipulations when crossing the Russo-Prussian frontier, *are required to pass a control station*, such as at present are in operation at Bajohren, Tilsit, Eydtkuhen, Insterburg, Prostken, Illowo, Ottlotschin, Posen and Ostrowo.

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The equipment and conduct of these control stations is regulated by special directions.

The preceding stipulations becoming effective cancel all previous directions appertaining to Non-German emigrants in transit crossing the Russo-Prussian frontier conflicting therewith, irrespective as to whether or not such emigrants are to be transported by domestic or foreign steamship companies. (Joint edict of the Ministers of the Interior, of Commerce and Trade, of February 26th, 1905.) Therefore all emigrants who are provided with tickets of the North German Lloyd and the Hamburg-American Line, are also required to pass a control station, when not in possession of sufficient funds.

The former regulations have been extended and made more severe, inasmuch as they now apply not

only to emigrants in transit, for England, the United States of North America and Canada as heretofore, but to all such crossing the seas, and they require the proof of possession of 400 respectively, 100 Marks on the part of those, bound for England also.

The new rules are less severe for emigrants coming from Russia than the old, because they do not require the possession of a *cabin* ticket, in addition to passport, railroad ticket and cash; and allow emigrants to proceed without passing a control station, if able to show any passenger contract of any steamship company, licensed in Germany; a steerage ticket being deemed sufficient if the other requirements are complied with.

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In this connection the former privileged position of the German Central Committee for Russian Jews has been eliminated, there being no longer any reason for such privilege, this committee having ceased its activities long ago.

II. *Prusso-Austrian Frontier Traffic.*

For the regulation of the Non-German emigrant traffic across the Prusso-Austrian frontier, the minister of the Interior and of Commerce and Trade has, by edict of September 20th, 1904, decreed as follows:

15033

Admission to Prussian state territory is permissible only when emigrants in transit are provided with a passage contract entered into with a steamship company licensed in Germany, covering transportation to a Non-German port of landing, a railroad ticket to the port of embarkation and sufficient funds to guarantee their admission into the country of their destination, or to pay for their return journey home, in the event of their rejection there. As heretofore, the possession of 400 Marks is deemed necessary for all normal persons in good health over 10 years of age, and of 100 Marks for such persons under 10 years.

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Non-German emigrants not complying with these stipulations are required to pass a registry station, such as are in operation at present at Myslowitz, Ratibor and Bingerbrück. The equipment and conduct of these registry stations is regulated by special directions.

Registry stations being governed by the same principles as those established in other German states, the passing of such stations shall be deemed sufficient for permitting travellers to cross Prussian territory.

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These directions do not apply to Non-German emigrants crossing the Russo-Prussian frontier and passing control stations located thereon. So far as these are concerned, rules and regulations in force remain unchanged. These stipulations becoming effective cancel all previous directions appertaining to Non-German emigrants in transit, conflicting therewith, and apply to all such emigrants, irrespective as to whether such emigrants are to be transported by German or foreign steamship companies.

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Hence the requirements to be complied with by Non-German emigrants in transit who desire unhampered to cross the Prusso-Austrian frontier, are practically identical with those, pertaining to such traffic in transit on the Prusso-Russian border, with the only difference that in the event of non-compliance therewith, a registry station must be passed on the one and a control station on the other. These registry stations also are being maintained jointly by the North German Lloyd and the Hamburg-American Line. They serve, as do the control stations, a charitable, sanitary and peace police purpose; only the sanitary police control is not as strict as at the control stations.

The obligations assumed by the German steamship lines, in the case of every emigrant registered at these stations, are identical with those assumed at the control stations. Non-German emigrants in transit who

have evaded these registry stations in violation of these rules and regulations, are to be stopped and sent home, unless they, of their own free will shall proceed to one of the registry stations, now being conducted at Ratibor, Myslowitz and Bingerbrück, or to the control station at Ruhleben, near Berlin.

The attention of the respective authorities has been called to the fact that the agents employed by the steamship companies at the registry stations are not vested with official functions, and that any attempt on their part to assume such, must be promptly and decisively stopped by the police representatives. On the other hand, every possible assistance must be rendered to agents striving to conform with regulations, and whenever emigrants attempt to act contrary to these rules and regulations, energetic action must be taken to compel compliance therewith.

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III. Austro-Saxon Frontier Traffic.

The Royal Government of Saxony has issued rules and regulations for the control of emigrant traffic in transit, crossing the Austro-Saxon frontier, which for all intents and purposes are identical to those governing Austro-Prussian frontier traffic. Registry stations have been established at Leipzig and two other points. Emigrants in transit having passed one of these stations, are allowed to travel through Prussian territory on their way to the port of embarkation without further formality.

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IV. Austro-Bavarian Frontier Traffic.

Law and Official Gazette for the Kingdom of Bavaria, No. 56, Munich, November 15th, 1905.

No. 23458, Information regarding the combating of cholera, with respect to emigrants in transit.

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Defendants' Exhibit 20

Royal Ministry of the Interior and of Traffic Matters.

In view of the prevalence of cholera in Russia, it is decreed, with the cordial assent of the Chancellor of the Empire; based upon Article 24, Chapter 1, Number 3, Paragraphs 2 and 25 of the Law of June 30th, 1900, with respect to combating common dangerous contagious diseases, and of the orders for the execution of such measures, No. 1, Part 2, issued by the Imperial Advisory Council February 21st, 1904, that, until further notice, the following regulations shall be in effect:

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1.

Emigrants in transit, coming from Russia, are permitted to cross the Bavarian frontier only by railway via Eger-Markt-Redwitz and Linz-Passau.

2.

At the railroad depots at Markt-Redwitz and Passau travellers coming from Russia are medically inspected, and all those afflicted with cholera, or suspected of being so afflicted, are isolated and quarantined. Emigrants in transit must obey the orders and follow the instructions given by the officials in charge and their subordinates.

15042

3.

Offences against numbers 1 and 2, unless subject to a more severe sentence under the Criminal Code of the Empire, are punishable by a fine of no more than 150 Marks, or imprisonment, as provided by part 46, section 3 of the Law regarding the combating of disease dangerous to the commonweal.

Munich, November 13th, 1905.

(Signed): DR. COUNT VON FEILITZSCH.

In Representation:

State Councillor von Ebermayer.

2. Instructions

*For the equipment and the conduct of the emigrant
registry stations in the Administrative
District of Oppeln.*

The arrangement and management of the emigrant registry stations at Ratibor and Myslowitz, established with the consent of the state by the German steamship companies, the North German Lloyd and the Hamburg-American Line, is governed by the following rules and regulations, and any special orders, that may be issued hereafter by the undersigned Administrative President.

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I.

Emigrants in transit, crossing the Austrian frontier in contravention of rules and regulations for the control of Non-German emigrants in transit over the Prussian frontier issued by the Minister of the Interior and the Minister of Commerce and Trade on September 20th, 1904, are to be taken by the police authorities to the registry stations at Myslowitz and Ratibor, the nearest station to be chosen in each instance.

II.

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The decision as to whether or not emigrants in transit taken to these stations by the police authorities, or applying there of their own accord, shall be forwarded further, lies with the representatives of the steamship lines, subject to the condition set forth under section 3. When such transportation is denied, the police authorities shall supervise the return of such rejected passengers across the border.

15046

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III.

The forwarding of emigrants in transit is permitted only if the physicians employed at the stations have ascertained, that there are no sanitary reasons against it.

The appointments of physicians to such stations must be approved of by the undersigned Administrative President.

IV.

15047

Acceptance of emigrants in transit for further transportation on the part of the authorized representatives of the steamship lines must be recorded in registers that must be kept in duplicate for each steamship line. One set of these records is intended for the use of the police of the community, wherein the station is located; the other is to be retained by the representatives of the steamship lines. The police are responsible for the correct entering upon these records of the names and data concerning emigrants in transit, and for the conformity of both sets of records.

V.

15048

Both sets of records are to be closed and signed daily by the representatives of the steamship lines, and then to be submitted to the police authorities, who, in turn, are required to examine and certify the entries of each day by affixing their signature and seal. In connection with the set of records held by the police, an alphabetical index must be provided, containing the family and proper names of the persons registered, together with the number of the page of the entry. This index must be kept up to date.

VI.

The representatives of the steamship lines are required to expedite the departure of emigrants in tran-

sit as soon as they have been registered, arranging however for such transportation in cars going through to the port of embarkation. Each emigrant in transit, upon being registered, is to be supplied with an identification card, similar to the sample attached, in order to avoid his being stopped and sent back while on his voyage through Prussian territory. This identification card is to be certified by stamp of the local police authorities.

VII.

The steamship companies are required to provide suitable accommodation and shelter and maintain same in proper condition. They also must see to it, that emigrants consigned to their care who arrive aboard evening trains, do not remain outside of the accommodations provided for them. If such accommodations are not directly connected with the stations, the transportation of emigrants in transit to the place provided should be accomplished without delay.

15050

VIII.

When transmitting to the police authorities the daily records duly signed by their authorized agents, the steamship companies undertake the obligation, that neither the Prussian state, a Prussian community, or a Prussian charity organization shall be put to any expense on account of the persons registered, neither for their transportation, their possible return transportation, their accommodation, maintenance, care or burial, and to indemnify such state, commonwealth or organization in the event of their being put to any such expense.

15051

Oppeln, July 14th, 1904.

The Administrative President:
(Signed): Holtz.

15052

*Defendants' Exhibit 20**3. Agreement*

*Between the Imperial German and the Imperial and
Royal Austro-Hungarian Governments with
respect to through traffic in each
other's territory.*

15053

Conditional on reciprocity, the two governments have agreed by an exchange of notes of January 25th, 1905, that neither will undertake measures to prevent persons wishing to emigrate from their territory from travelling through the territory of the other state, provided such persons are entitled to emigrate according to general rules and regulations.

Various Laws, Ordinances, etc., including those referred to in foregoing Supplement O.

TRANSLATION.

(Federal Laws of the North German Federation
1867, No. 5, p. 33.)

15054

(No. 8.) Law regarding Passes of Oct. 12, 1867.
We, Wilhelm, by the Grace of God, King of Prussia, etc. in the name of the North German Federation decree, after having obtained the consent of the Federal Council and the German Parliament (Reichstag), as follows:

Par. 1. No subject of the Confederation requires a pass to depart from Federal territory, to return to it, or for a stay or traveling within the same. But at their request passes or other pass papers shall be issued to them if there are no legal obstacles to their right to travel.

Par. 2. Nor shall a passage paper be required from foreigners, either when entering, or when departing over the frontier of the Federal Territory, nor during their stay or their travels within the same.

Par. 3. Federal subjects as also foreigners are however required, at official request, to submit sufficient identification in regard to their person.

Par. 4. Passes or other traveling papers, as well as other legitimation documents, which are issued by the proper officials of a Federal State, if they do not contain a specific restriction in this respect, are valid for the entire Federal territory.

15056

Par. 5. There is no obligation to submit the traveling papers for visée.

Par. 6. The following are authorized to issue passes to Federal subjects for entrance in Federal territory:

1). Federal ambassadors and Federal Consuls.

2). The ambassadors of every Federal State, but as far as subjects of other Federal States are concerned, only inasfar as the latter are not represented in their territory.

3). As far as they are still in existence (Art. 56 of the Federal Constitution) the Consuls of every Federal State, inasfar as they possess this authority in conformity with the provisions applying to that state.

15057

Those officials are authorized to issue foreign passes and other traveling papers, who, in conformity with the provisions applying to the individual Federal States, possess this authority, or who are authorized in future by the Confederation or by the governments of the individual Federal States.

Par. 7. For passes and other traveling papers uniform blanks are to be introduced and used.

Defendants' Exhibit 20

15058

Par. 8. For passes and other traveling papers there shall not be levied a higher stamp tax and execution fee than at most one Thaler for both.

The ambassadors and consuls are authorized to issue passes stamp-free and without expense. The individual government have the right to decide in what other cases this is permissible.

15059

Par. 9. If the safety of the Confederation or any one of its Federal States, or the public welfare appears endangered by war, internal disturbances or other events, the obligation to be in possession of a pass can be temporarily introduced by a decree of the Federal Council either entirely or for a certain district, or for trips from and to certain states of foreign countries.

Par. 10. This law will take effect January 1, 1868.

All regulations, opposed to this, become null and void.

This does not, however, affect the regulations in regard to compulsory passes and traveling routes, nor the control of persons newly arriving, nor of strangers (foreigners) at their stopping place.

15060

However, for the latter purpose, certificates of permission to reside may neither be introduced nor continued, where they exist.

In Witness Whereof, Our Most High personal signature and the affixed Federal Seal.

Executed Baden-Baden, October 12, 1867.

(L. S.) WILHELM,

Graf v. Bismarck-Schoenhausen.

(Issued at Berlin, October 31, 1867.)

(Imperial Laws, 1879, No. 2, p. 3.)

(No. 1278.) Decree relative to restrictions of imports from Russia, of January 29, 1879.

We, Wilhelm, by the Grace of God, German Emperor, King of Prussia, etc., decree in the Name of the Empire, after having obtained the consent of the Federal Council, as follows:

Par. 1. To prevent the danger of bringing in contagious diseases, the importation of the following articles is forbidden from Russia over the Imperial frontier until further notice:

15062

Used personal and bed wash, used dresses (cloths), rags of all kinds, paper waste, furs, leather, hides, skins, half-finished as also chamois-dressed kid leather and sheepskin, bladders, guts in fresh and in dried condition, salted guts (Saitlings) felt, hair (including the so-called zackel wool) Bristles, feathers, carviar, fish and Saretabalsam.

Par. 2. The inhibition contained in Par. 1 does not apply to wash, articles of apparel and other traveling utensils, which travelers take with them for use.

The Imperial Chancellor is authorized to decree to what extent and in what manner such articles are to be subject to disinfection.

15063

Par. 3. The importation of sheep wool, so far as this has not been forbidden by decrees of the government officials, is only permitted after previous disinfection.

If the sheep wool to be imported has been subjected to a factory wash, the disinfection shall be restricted to the packing.

Par. 4. This decree shall take effect on the day of its publication.

15064

Defendants' Exhibit 20

In witness whereof Our Most High Personal Signature and affixed Imperial Seal.

Executed Berlin, January 29, 1879.

(L. S.) WILHELM,

Otto Graf zu Stolberg.

(Issued at Berlin, January 30, 1879.)

IMPERIAL LAWS, 1879, No. 4, page 9.

15065

(Nr. 1280.) Decree relative to the obligation to have pass of travelers coming from Russia. Of February 2, 1879.

We, Wilhelm, by the Grace of God German Emperor, King of Prussia, etc.

decree in the Name of the Law, based on Par. 9 of the Law relative to passes, of October 12, 1867 (Federal Law Journal, p. 33) as follows:

15066

1. Beginning with the 10th of this month until further notice, every traveler coming from Russia must identify himself by pass, which has been viséed on the day of his departure from the Russian territory, by the German Embassy in St. Petersburg or by a German Consular official in Russia, or on either of the two preceding days.

Par. 2. To obtain this visée credible evidence must be produced that the holder of the pass did not stop in any place attacked by the pestilence or suspected of same within the last twenty days.

Par. 3. The pass shall be submitted to the frontier officials of this country for visée when entering via the Imperial frontier in order to obtain permission for the continuation of the trip.

Par. 4. The Imperial Chancellor is authorized to take the proper steps for the execution of this decree.

In Witness Whereof our Most High Personal Signature and the affixed Imperial Seal.

Executed Berlin, February 2, 1879.

(L. S.)

WILHELM,

Otto Graf zu Stolberg.

(Issued at Berlin, Feb. 3, 1879.)

IMPERIAL LAWS, 1879, No. 4, p. 10.

Nr. 1281. Publication regarding the admittance of Travelers from Russia over the Imperial frontier. Of. February 3, 1879.

Based on the authorization granted by me in Par. 4 of the decree of the 2nd inst. in regard to the coming from Russia (Imperial Law Journal, p. 9) obligation to possess pass on the part of travelers and in Par. 2, Art. 2 of the decree of the 29th ulto. relative to restrictions on the importations from Russia, (Imperial Law Journal No. 3), I hereby decree as follows:

1. Travelers, coming from Russia, are only then to be admitted over the Imperial frontier, if they identify themselves by passes, which are in entire conformity with the regulation of Par. 1 of the decree of the 2nd inst.

2. The traveling baggage of those travelers, who are in accordance herewith, to be admitted over the Imperial frontier, but who belong to a Russian Government, which has been attacked by pestilence, or is suspected of same, by domicile or ordinary stay, are

15070

Defendants' Exhibit 20

to be subjected to disinfection when entering via the Imperial frontier and before they are permitted to continue their journey. Of the wearing apparel, which such travelers have on their persons, the upper garments at least must be disinfected.

3. The disinfection (2) must be done by means of gaseous, sulphurous acid in the manner that the articles to be disinfected are to be exposed for at least 6 continuous hours in a closed room to the direct influence of the sulphurous acid and that at least 15 gramm sulphur to the cubic meter air space shall be burnt for this purpose.

Berlin, February 3, 1879.

Deputy of the Imperial Chancellor,

OTTO GRAF ZU STOLBERG.

IMPERIAL LAWS 1879, No. 11, p. 125.

(Nr. 1292.) Decree relative to the partial abrogation of the restrictions on importations from Russia. Of April 8, 1879.

We, Wilhelm, by the Grace of God, German Emperor, King of Prussia, etc.

decree in the Name of the Empire, after having obtained the consent of the Federal Council, as follows:

Beginning with the day of the publication of this decree in the stead of Par. 1 and 3 of the decree of January 29th of this year in regard to restrictions on importations from Russia (Imperial Law Journal p. 3) the regulations as follows will take effect:

To eliminate the danger of bringing contagious diseases into the country, the importation of the following articles from Russia over the Imperial frontier is forbidden until further notice:

Used personal and bed wash, used apparel, rags of any kind.

In Witness Whereof our Most High Personal signature and affixed Imperial Seal.

Executed, Berlin, April 8, 1879.

(L. S.)

WILHELM,

Fuerst V. Bismark.

(Issued at Berlin, April 9, 1879.)

IMPERIAL LAWS 1879, No. 17, p. 155.

15074

(Nr. 1304.) Decree in regard to the obligation to hold pass of travelers coming from Russia. Of June 14, 1879.

We, Wilhelm, by the Grace of God, German Emperor, King of Prussia, etc.

decree in the Name of the Empire, based on Par. 9 of the law in regard to Passes of October 12, 1867 (Federal Law Journal, p. 33) abrogating the decree of February 2nd, this year relative to the obligation to hold pass of travelers coming from Russia (Imperial Law Journal, p. 9) as follows:

Par. 1. Until further notice every traveler, coming from Russia, must legitimate himself by pass, which has been viséed by the German Embassy in St. Petersburg or a German Consular official in Russia.

15075

Par. 2. The pass must be presented when entering over the Imperial frontier to the frontier officials of this country in order to obtain permission to continue this trip.

Par. 3. The Imperial Chancellor is authorized to institute the necessary general measures to carry out this decree.

Defendants' Exhibit 20

15076

In Witness Whereof Our Most High Personal
Signature and affixed Imperial Seal.

Executed, Berlin, June 14, 1879.

(L. S.)

WILHELM,

Fuerst v. Bismarck.

(Issued at Berlin, June 17, 1879.)

IMPERIAL LAWS 1879, No. 18, p. 158.

15077

(Nr. 1306.) Decree relative to the abrogation of
the restrictions on importations from Russia. Of June
17, 1879.

We, Wilhelm, by the Grace of God, German Em-
peror, King of Prussia, etc.

decree in the Name of the Empire, after having
obtained the consent of the Federal Council, as fol-
lows:

Beginning with the day of the publication of this
decree the restrictions stipulated in the decree of April
8th, this year (Imperial Law Journal, p. 125) in re-
gard to importations from Russia, become null and
void.

15078

In Witness Whereof our Most High Personal sig-
nature and affixed Imperial Seal.

Executed, Berlin, June 17, 1879.

(L. S.)

WILHELM,

Fuerst v. Bismark.

(Issued at Berlin, June 20, 1879.)

IMPERIAL LAWS 1881, No. 1, p. 1.

(Nr. 1400.) Decree relative to the obligation to
hold pass of travelers coming from Russia. Of De-
cember 29, 1880.

We, Wilhelm, by the Grace of God, German Emperor, King of Prussia, etc.

decree in the name of the Empire, based on Par. 9 of the law in regard to Passes of October 12, 1867 (Federal Law Journal, p. 33), pursuant to the decree of June 14, 1879, relative to the obligation to hold pass of travelers coming from Russia (Imperial Law Journal, p. 155) as follows:

Par. 1. The obligation of travelers coming from Russia to have their passes viséed, in conformity with Par. 1 and 2 of the decree of June 14, 1879 (Imperial Law Journal, p. 155) is abrogated, as far as the subjects of the German Empire and those of other countries are concerned, where Germans are permitted admittance without it being necessary to have their passes viséed by an embassy or consular official of the country in question.

15080

Par. 2. By this decree the other regulations of the decree of June 14th, 1879 remain unaffected.

Par. 3. The Imperial Chancellor is empowered, to institute the necessary general measures to carry out this decree.

In Witness Whereof Our Most High Personal signature and affixed Imperial Seal.

Executed, Berlin, December 29, 1880.

15081

(L. S.)

WILHELM,

Fuerst v. Bismark.

(Issued at Berlin, January 6, 1881.)

Defendants' Exhibit 20

15082

IMPERIAL LAWS. 1894. p. 343.

*(No. 2164.) International Agreement, respecting Measures against the Cholera, of April 15, 1893.**(Promulgated at Berlin, April 26, 1894.)**Convention.*

15083

His Majesty the Emperor of Germany, King of Prussia, in the name of the German Empire His Majesty the Emperor of Austria, King of Bohemia, etc., etc., and Apostolic, King of Hungary; His Majesty the King of the Belgians; the President of the French Republic; His Majesty the King of Italy; His Royal Highness the Grand Duke of Luxemburg; His Highness the Prince of Montenegro; Her Majesty the Queen of the Netherlands and in her name Queen Regent of the Kingdom; His Majesty the Emperor of all the Russias; the Swiss Federal Council,

Having decided to establish common measures to safeguard the public health in time of cholera epidemic, without occasioning useless obstacles to commercial transactions and to the movement of travellers, have named as Their Plenipotentiaries: [Here follows a list of same.]

15084

Who, having exchanged their powers found in good and due form, have agreed to the following provisions:

I.

In what concerns international prophylaxis applicable to travellers and to merchandise:

Shall be applied henceforth the measures indicated and specified in the Annex 1 of the present Convention.

II.

In what touches the sanitary regulation of the mouth of the Danube (Mouth of Soulina) :

Are adopted the provisions recorded in the Annex II.

III.

The parts hereto annexed have the same value as if they were incorporated in the present Convention.

15086

IV.

The present Convention shall have a duration of five years to begin from the date of the ratification. It shall be renewed five years at a time by tacit holding over, saving notice of withdrawal, within a period of six months before the expiration of this term, by one of the High Contracting Parties.

The notice of withdrawal shall produce its effect only in respect to the Country or Countries which shall have given notice of it. The Convention shall remain executory for the other States. The High Contracting Parties reserve to themselves equally the right to propose, by way of diplomatic negotiations, the modifications which they may judge necessary to be introduced in the Convention and its Annexes.

15087

The present Convention shall be ratified; the ratifications thereof shall be deposited at Berlin as soon as possible and at the latest within the period of six months to date from the 15th of April, 1893.

In faith whereof, the respective Plenipotentiaries have signed it and have affixed their seals thereto.

Done in ten copies, at Dresden, the 15th of April, 1893.

15088

*Defendants' Exhibit 20**Annexes to the Convention.*

Annex I.

Title I.

Measures designed to keep the signatory Governments of the Convention informed of the state of an epidemic of cholera, as well as of the means employed to avoid its propagation and its importation into the unaffected places.

15089

Title II.

Conditions in which the territorial area ought to be considered as contaminated or healthy.

Title III.

Necessity of limiting to the contaminated territorial area the measures designed to prevent the propagation of the epidemic.

Title IV.

15090

Susceptible merchandise or objects inspected with reference to prevention of importation or transit—and of disinfection.

I.

Importation and transit.

II.

Disinfection.

Title V.

Measures to be taken at land frontiers. Service of the Railroads. Travellers.

The carriages affected in the transportation of travellers, mail and baggage cannot be retained at the frontiers.

If it happens that one of these carriages be contaminated, it shall be detached from the train in order to be disinfected, whether at the frontier, or at the nearest station for stopping, when this shall be possible.

It shall be the same for carriages with merchandise.

15092

Only those sick with cholera and persons attacked with cholera—form symptoms can be detained.

It is important that travellers be subjected, with reference to their health, to an inspection on the part of the personnel of the railroads.

Medical intervention shall be limited to a visit of the travellers and to the care to be given to the sick.

If there is a medical visit, it shall be combined, as far as possible, with the custom-officer's visit, so that the travellers may be detained the least possible length of time.

When travellers coming from a contaminated place shall have arrived at destination, it shall be of the highest utility to subject them to an inspection of five days to be counted from the date of the departure.

15093

The measures concerning the passage at the frontiers of the personnel of the railroads and mail are of the jurisdiction of the administrations interested. They shall be combined so as not to impede the regular service.

The Governments reserve to themselves the right to take particular measures in regard to certain classes of persons, especially towards:

15094

Defendants' Exhibit 20

- a) gypsies and vagabonds;
- b) emigrants and persons travelling or passing the frontier in groups.

Title VI.

Special Regulation of Zones—Frontier.

Title VII.

River Ways. Rivers, Canals and Lakes.

15095

Title VIII.

Maritime Part—Measures to be taken in the Ports.

Annex II.

Measures to be taken in regard to ships proceeding from a contaminated port and ascending the Danube.

I. *Measures to be taken at Soulina.*II. *Measures to be taken upon the shores of the river.*

15096

PROTOCOL OF ADHESION.

(Great Britain ratified the convention, with certain exceptions, on July 13 at London, and July 15 at Berlin, 1894. In a foot note to this protocol (p. 367), it is stated the following countries had also then ratified the Convention: Germany, Austro-Hungary, Belgium, France, Great Britain and Ireland, Italy, Luxemburg, Russia and Switzerland. It appears from official proclamations (Bekanntmachungen), issued by

the German Government from time to time and printed in the Imperial Laws, that the following countries subsequently ratified the Convention: Servia, and the Principality of the Liechtensteins, (a small state of Germany between the Tyrol and Switzerland) on February 15, 1895 (Imperial Laws 1895, p. 152); the British Colonies of Natal, Ceylon, Lagos, St. Helena and Canada on December 14, 1895, (*id.*, 461); and Roumania on October 18, 1897 (*id.*, 1897, p. 776). A new International Convention, covering the Plague, Cholera and Yellow Fever, was entered into by the various Governments on December 3, 1903.)

15098

TRANSLATION.

Copy.

E. PASS and FOREIGN POLICE.

120) Circular to all Royal District Presidents and to all Royal Province Presidents of October 8th, 1893, in regard to emigration via Holland.

As I have been informed, quite a large number of of foreign emigrants have gathered recently in the government district of Osnabrueck, whose further trip to Holland ports has encountered difficulty for the reason that they are only allowed to pass the Dutch frontier if they already are in possession of the proper steamer ticket, which the majority of them, however, do not possess. The difficulties arising from this have been increased by the fact that those emigrants, that emanate partly from Russia via Memel, Eydtkuhnen or Stettin and partly from Galizia, are very often not provided with sufficient funds for this unexpected stay. For this reason I would again recall attention to the regulations governing the admission of foreign emigrants to Prussian ground, especially as they have

15099

Defendants' Exhibit 20

15:00

been stipulated in the decrees of May 6th, last year, and March 17th and May 24th of the current year.

15:01

According to these regulations Russian emigrants shall be absolutely excluded from entering Prussian ground, if they cannot show a proper pass, a cabin ticket to America and as much cash as is required to assure their journey to America and their acceptance there in view of the so-called pauper law. For this, in the case of healthy and not weakly persons, if they are older than 10 years, the sum of M.400 for each one is required; for younger persons the sum of M.100 each. Only those Russian emigrants are exempted from proving that they are in possession of sufficient cash funds, who can either present the cabin ticket of a German steamship company for the voyage to America and complete railroad ticket for the journey to the steamship port, or give a guarantee of the German Central Committee for the Russian Jews in that city that they will be sent to America without expense or stay-over in Germany and, in case they should be rejected there, there they will be transported back to their mother country. On the other hand, the possession of a cabin ticket of a foreign steamship company does not suffice to replace the evidence of cash funds. Whoever is in possession of such a ticket must furthermore not only be in possession of a pass, but must also prove that he is in possession of the cash funds which are required to assure his further journey to America and his admittance there in conformity with the regulations of the Pauper Law.

15:02

These regulations apply to Galician emigrants with the exception that the possession of a pass and a cabin ticket as a preliminary condition to pass the frontier is not required. On the other hand, the Galician emigrants, if they desire to travel through Prussia must also be able to prove either that they have the nec-

essary cash funds or the steamship ticket of a German steamship company for the journey to America, and railroad tickets to the steamship port, or the specific guarantee for their further transportation and permanent support on the part of the German Central Committee for Russian Jews.

IMPERIAL LAWS 1894, No. 32, p. 501.

(Nr. 2188.) Decree relative to the obligation to hold pass of travelers coming from Russia. Of June 30, 1894. 15104

We, Wilhelm, by the Grace of God, Emperor of Germany, King of Prussia, etc.

decree in the name of the Empire, based on Park 9 of the law relative to Passes of October 12, 1867 (Federal Law Journal, p. 33) abrogating the decree of December 29, 1880 in regard to the obligation to hold pass of travelers coming from Russia (Imperial Law Journal, 1881, p. 1), as follows:

Par. 1. The obligation of travelers coming from Russia to have their pass viséed in conformity with Par. 1 and 2 of the decree of June 14, 1879 (Imperial Law Journal, p. 155) is abrogated. 15105

Par. 2. The other provisions of the decree of June 14, 1879 are not affected by this decree.

Par. 3. The Imperial Chancellor is authorized to institute the necessary general measures to carry out this decree.

In Witness Whereof our Most High Personal Signature and affixed Imperial Seal.

Executed, Kiel, June 30, 1894.

WILHELM,
Graf von Caprivi.

(Issued at Berlin, July 11, 1894.)

15106

Defendants' Exhibit 20

TRANSLATION.

Copy.

Minister of the Interior.

Berlin, Sept. 18, 1894.

Received Sept. 28, 94. No.

Received

Answered Sept. 30, 94

Answered.

15107

In reply to the representations made by the representatives of the North German Lloyd and the Hamburg American Packetfahrt A. G. of July 24th and August 17, 1893, of January 29th, March 28th, July 23rd and 24th, 1894, we hereby approve, referring to the conference held in the Ministry of the Interior on May 4th of this year, at which the Directors Marquardt-Bremen and Ballin-Hamburg were present, the erection of so-called "Control Stations" at the Russian frontier, with the right to recall at any time, on the following conditions for the purpose of regulating the transportation of emigrants passing through the country from Russia to Bremen and Hamburg:

15108

1). Both steamship companies must establish the control stations as also subsequently perhaps, remove the same and shall stand all expenses which are incurred hereby as also for the maintenance and the operation of the stations.

Furthermore, both companies must guarantee under joint liability, the expenses which may be caused the State, the communities or the charity organizations:

a). By transporting the through-emigrants, admitted to the stations, regardless of whether the latter were actually received in the stations or not, and regardless of in what direction or for what reasons whatever the transportation is made.

b). By providing for, housing and taking care of (eventually also burying) these through-emigrants, regardless of whether these expenses were caused at the stations or anywhere else in Germany, whether they were caused on the journey to or back.

This obligation of both companies also remains in force toward the State, the communities and the charity organizations, should the through emigrants who are admitted to the control stations subsequently perhaps buy steamship tickets of other companies.

2). Control stations shall first be established in Bajohren, Eydtkuhnen, Prostken, Jllowo and Ottlotschin. Both steamship companies, however, bind themselves to establish and maintain other stations at any time upon request, at other frontier points, with corresponding equipments. On the other hand, the companies can be forbidden the further use of stations already established and be ordered to remove them. This can especially be demanded if the requirements stipulated in regard to the erection and management of the stations are not conformed with sufficiently.

15110

3). The control stations are to be erected near to railroad stations, in accordance with the plans and description submitted on July 24th of this year.

The examination of the plans, in detail shall be left to the proper officials in accordance with the building, and sanitary-police regulations involved.

15111

The erection as planned, however, is to be further complemented in the manner that every control station must have a corresponding room, in which sick people separated as to their sex, can be housed and nursed. The government police officials shall decide in what manner this requirement shall be complied with in each station.

Therefore, each station shall comprise four buildings, separated from one another:

Defendants' Exhibit 20

15112

a). A Barrack of about 30 meters length, 15 meter width and 4 1/2 meter height, comprising a waiting room for the arriving through-emigrants, separate disrobing,—bath—and dressing rooms for men and women, adequate rooms and apparatus for disinfection, furthermore doctors' and staff rooms, as well as finally, a waiting room for the through-emigrants who have been disinfected.

b). a barrack of suitable size, in which, separated as to sex, those suspected of being ill can be housed and treated.

15113

c). A suitable sick room for receiving men and women separately.

d.) A lavatory, as per regulations, complying with the needs.

A complementing or extending of the equipment arranged for must always be effected on demand.

Furthermore, the stations are to be isolated as much as possible, which, in accordance with the instructions of the government police officials, must be effected by erecting a fence or in any suitable manner.

15114

I, the Minister of public works, have empowered the proper Royal Railroad Administration to give over to both steamship companies the ground required for the erection of the control stations; in regard to the private railroads involved, the Royal Railroad Commission has been provided with the proper instructions.

4. In every control station there must be employed by the steamship companies:

a). A Doctor, for whom a substitute must be held in readiness.

b). The necessary attendant and managing force. The doctor must see to the sanitation of the station and is responsible for this. He must examine the

Defendants' Exhibit 20

15115

through emigrants upon their arrival in the station and must instruct whether they are to be treated as in good health, suspected of being sick, or sick.

a). Those in good health (but only *they*), after they have passed the station and been subjected, together with their belongings, to the prescribed disinfection process, must be transported as quickly as possible to the embarkation port. When granting permission for continuance of the trip, humanitarian grounds are to be considered as well as the sanitary.

b). Those suspected of being sick are to be housed in that part of the station set aside for them and are there to be subjected to at least five days of observation before they, if their transfer to the Department for Sickness has not been found necessary, can be allowed to continue their journey, as in good health, to the ports, or be transported back over the Russian frontier.

15116

c). Sick people are to have suitable medical treatment in the room set aside for them, until they can be treated in the same manner as healthy emigrants and either their further journey be effected or their return transportation over the Russian frontier. In case of death, the companies must attend to the burial.

The sicknesses in question are not only cholera, but also all other contagious diseases, as small pox, spotted typhus, diphtheria, etc.

15117

5. As the equipment and maintenance of the stations is exclusively at the expense of both steamship companies, only those emigrants can be admitted to the stations, who intend to travel with the ships of these companies. In order to facilitate the control, the companies agree as far as in their power to deliver their tickets to the emigrants even at the other side of the frontier. Furthermore, they agree to employ at every

Defendants' Exhibit 20

15118

frontier pass belonging to the control stations (R. R. station) an official who shall designate emigrants arriving there, and whose further transportation is taken over by the companies.

15119

As long as there are no special police considerations in individual cases, those emigrants from Russia, whose further transportation through Germany is attended to by the steamship companies in the manner mentioned, are allowed to pass the frontier, without their being required to comply with the demands, which otherwise remain in force unchanged (cabin ticket or possession of a certain sum of money and presentation of the pass), as in this case, the companies take the obligation of the emigrant.

The companies agree, however, to see to it as much as possible, that the through emigrants to be received at the control stations carry at least an identification paper of the simplest kind (birth or baptism certificate, frontier pass, pass or blue book), to give information in regard to their extraction and origin.

I, the Minister of the Interior, reserve the right to demand generally, in the future, the possession of such a paper as a preliminary condition for the admittance to such a control station.

15120

6. The transportation from the frontier to the control station of the through emigrants taken over by the officials of the companies must be effected in closed troupes, avoiding all contact with the public, otherwise present, and must be attended to via the shortest route, under proper guard.

7. No emigrant who is admitted to the control stations may, undertake independently and according to his own judgment, the trip through Prussia to the embarkation ports, and this must be avoided by the companies through special measures. The further transportation is exclusively matter of the companies.

and must be done in closed troupes (whether in special trains or in a special emigrant car, attached to a special train), in regard to which special arrangements must be made by the companies with the railroad administration.

During the railroad trip the through emigrants are to be kept strictly isolated from the rest of the public. They may, therefore, only be transported in a train, in a number for which sufficient public toilets are installed, intended only for emigrants.

The other through-emigrants are to be rejected and for the present remain in the station.

It is not required that an accompanying doctor be given the emigrant trains. On the other hand, the companies must see to it that at suitable stopping stations, always after a trip of about six hours, there is a physician at disposal, who can examine the condition of health and in case of sickness, make the necessary arrangements.

All through emigrants who are transported by railroad from the control stations to Bremen or Hamburg are to be sent via Ruhleben, where, during a suitable stop, they are to be subjected to medical examination and proper treatment (washing, disinfection).

8. The companies expressly assume the obligation, also to do all in their part that those through-emigrants from Russia, who have been rejected at the control stations or somewhere else after leaving it on their further trip, be transported back, not only over the frontier, but to their home, as soon as possible.

9. The control stations and everything else pertaining to its operation are subject to permanent police inspection. The companies are obliged to suffer the necessary measures to carry out this inspection, respectively to make it possible.

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15124

The companies, in case they do not comply with their obligations, are in danger of use being made of the reserved right to recall, and that the privileges allowed both companies at the frontier will be revoked.

The Royal Provincial Presidents of the Provinces of East and West Prussia have been entrusted with the instructions further necessary to carry out this decree, and will also determine on what day, after the completion of the necessary preparations, the individual control stations are to be put in operation and the regulations in regard thereto enter into force to their full extent.

15125

If desired, communicate with the said Provincial Presidents for further information.

The Royal Prussian Minister of the Interior.

(Signed.) GRAF EULENBERG.

The Royal Prussian Minister of Public Works.

(Signed.) THIELEN.

The Royal Prussian Minister
for Commerce and Trade
per attorney

signed. v. Wendt.

The Royal Prussian Minister
of clerical, educational
and medicinal affairs:

15126

per attorney
signed. Cartsch.

TRANSLATION.

Copy.

3.

Ministry of Public Works,

Berlin, January 13, 1896.

Referring to my decree of June 21, 1893, No. II/III 5344, in regard to through emigrants from

Defendants' Exhibit 20

15127

Russia, who have crossed the frontier unlawfully and arrived in the interior, the regulations regarding them are stipulated as follows:

1. Emigrants from Russia, who are not in possession of a proper pass and of a cabin ticket for the ocean voyage and who wish to buy tickets at an interior station for another interior station or for a sea port, shall be refused them. They shall only receive a ticket for their return to Russia or to the next control station, or if they are bound toward a station westward of Schneidemuehl, ticket is to be issued to Ruhleben.

15128

If any doubt exists whether the travelers are emigrants from Russia, or if they refuse to buy a ticket to the aforesaid stations, they shall immediately be conducted to the nearest official of the general police administration, which latter shall decide. It is also left to the police administration to see to it that the emigrants actually take the trip to the control stations, in conformity with the tickets issued to them, or that they return to Russia. The officials of the railroad administration do not take any responsibility for this but they must render the police officials their full support in seeing to it that the emigrants are conducted to the control stations.

15129

2. The train, station and control personnel of the railroad administrations of the eastern lines shall be instructed to see to it in trains going west, carefully but without annoying not interested travelers, that these are not used by emigrants from Russia (even though in possession of proper tickets) who have passed the frontier unlawfully, *i. e.*, who are neither in possession of a proper pass and a cabin ticket nor have passed through an emigrant control station, but who have nevertheless, without being recognized, bought a ticket at the ticket office, or who contrived to

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15130

get one through a third person. Travelers, who under given circumstances, are suspected of such an attempt are to be reported to the station agent at the next station, who is to see to it that such travelers be brought before the police officials.

It is remarked in this connection that every emigrant, who has properly passed a control station, is to be provided with a certificate to this effect, so that the non-possession of such a certificate justifies the assumption of having slipped by the control station.

15131

The R. R. officials are entitled to demand the presentation of this certificate. The police officials must then definitively determine whether it is a case of improper avoidance of the control station and take further steps.

The decree issued by the Minister of the Interior to the Provincial President in Koenigsberg, Stettin, Potsdam and Posen of the 16th inst. is attached herewith in copy.

THE MINISTER OF PUBLIC WORKS,
signed THIELEN.

Copy.

15132

Berlin, January 16, 1896.

Ministry of the Interior.

I respectfully beg to inform the Central Administration that other instructions in regard to the treatment of emigrants from Russia who have unlawfully passed the frontier and arrived in the interior, have been issued, in conformity with which such emigrants shall receive tickets to interior control stations lying east of Berlin, respectively to Ruhleben, or back to Russia. (See Translator's note below.) A premise for this is that all emigrants received at the control

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15133

stations and accepted for over-sea transportation receive a certificate in regard to their admittance to one of the stations. As far as I know, this is already the case. Nevertheless, I do not wish to omit calling the attention of the Central Administration to it, so that any measures that may be further deemed advisable may be taken.

THE MINISTER OF THE INTERIOR,

signed. VON DER RECKE.

To the Central Administration

Emigrant-Control Stations,

this city.

B. 11781, August 2.

15134

Trans. Note. This sentence in the German is not quite clear, as the word "ticket" transportation or a similar word seems to have been omitted. We believe we have given the correct interpretation. L.T. B."

IMPERIAL LAWS, 1897, pp. 463-472.

(No. 2393) *Law concerning Emigration. Of June 9, 1897.*

15135

We William, by grace of God, German Emperor, King of Prussia, &c., enact in the name of the Empire, upon the consent given by the Federal Council and the Reichstag, as follows:

I.—Grantees.

Sec. 1. He who desires to undertake the forwarding of emigrants to countries outside of Germany (grantee) must have a license.

Defendants' Exhibit 20

15136

Sec. 2. Giving and refusing this permission belongs to the Chancellor of the Empire, with the consent of the Federal Council.

Sec. 3. As a rule permission is only to be given to:

(a) Citizens of the German Empire who have their commercial establishment within the territory of the Empire.

15137

(b) Mercantile companies and corporations who have their seat within the Empire; co-partnerships and commanditt companies and commanditt companies on shares, however, only if the individually liable associates are all German citizens.

Sec. 4. To foreign persons or corporations, as well as to citizens of the German Empire who have not their commercial establishment within the Empire of Germany, the license can only be given if:

(a) They appoint a citizen of the Empire, residing therein, as their attorney in fact, who shall lawfully represent them in the matters concerning the forwarding of emigrants, with Authorities or private persons.

15138

(b) If they subject themselves to the German Law and the German Courts in all legal controversies arising out of the acceptance and forwarding of the emigrants.

Sec. 5. Before permission is given, the applicant has to deposit securities for at least 50,000 marks, and if intending to undertake transoceanic forwarding business he must prove further that he is a ship-owner.

Sec. 6. Permission is to be given only for particular countries, and portions of such, or particular

places, and in case of transoceanic forwarding only for particular ports of embarkation.

Sec. 7. In case of granting a license to such German Companies whose object it is to procure settlers for lands acquired by them in transoceanic countries, the Chancellor of the Empire is not bound by the provisions of section 5; for particular reasons, however, exceptions from the provisions of Art. 5 may be made.

Sec. 8. Permission entitles the grantee to do business throughout the German Empire, with the following restrictions: Outside of the communality of his place of business and that of his branch office, he has—as far as concerns more than giving information to inquiries and the publication of conditions and forwarding opportunities—to avail himself of the assistance of agents as provided in section 11.

15140

Sec. 9. The grantee can have substitutes to transact his business. The appointment of such is necessary for the establishment of such offices. After the death of a grantee and in case of a guardianship or administration, the carrying on of the business can only be continued by the substitute for not more than six months. The appointment of a substitute has to be approved by the Chancellor of the Empire.

15141

Sec. 10. Though permission given to the grantees can, with the consent of the Federal Council, be restricted or revoked at any time by the Imperial Chancellor, the permission of the appointment of a substitute can be revoked by the Imperial Chancellor at any time.

15142

*Defendants' Exhibit 20**II.—Agents.*

Sec. 11. Whoever desires to assist in the manner described in section 1 by preparing and contracting the forwarding of emigrants (agent) requires permission therefor.

Sec. 12. This permission is given by the high administrative authority.

15143 Sec. 13. Permission can only be granted to citizens of the Empire who reside or do business within the district of this high administrative authority (section 12). This permission cannot be granted even under compliance with the above requirements:

(a) If facts are known which prove the unreliability of the applicant with regard to business contemplated by him.

(b) If permission has already been granted (section 15) to a number of persons considered sufficient for the proportion of the district by the authorities thereof.

Sec. 14. Before permission is granted, the applicant has to give security for at least 1,500 marks.

15144 Sec. 15. Permission to do business in the district of the authority granting the same, if the same is not limited to a part thereof only, can be given; with the consent of this authority, the extension of the business into neighboring districts can be granted to the agent by the authorities of such districts.

Sec. 16. Agents can not transact business of the kind mentioned in section 11 for persons other than those mentioned in the instrument of permission, or for their own account.

Sec. 17. Agents cannot carry on business in branch offices by substitutes or in traveling about.

Sec. 18. Permission granted to agents can at any time be limited or revoked. Permission must be revoked:

(a) If the requirements of section 13 are not complied with.

(b) When facts exist which prove the unreliability of the agents in regard to his business transactions.

(c) If securities, in part or wholly, have been applied to cover claims, and are not replaced within four weeks after being called for.

15146

Sec. 19. Complaint against the ordinances of the authorities based on sections 11, 15 and 18 can be entered at the supervising authority within two weeks.

III.—*Ordinances for Grantees and their Agents.*

Sec. 20. The securities deposited by grantees and their agents serve for all liabilities, fines, and costs arising from their business transactions with emigrants and with the authorities.

15147

Sec. 21. The Federal Council issues the necessary regulations about the management of the business of principals and agents, particularly:

(a) About the books and registers to be kept, statistics and other records, as well as the blank forms to be used.

(b) About the manner of giving security and the conditions which are to be entered in the bond concerning the liability and supplementing and restoring the securities.

15148

*Defendants' Exhibit 20**IV.—General Provisions Regarding Forwarding Emigrants.*

Sec. 22. The grantee is permitted to forward emigrants only on the basis of a previously executed written contract. The emigrants cannot be placed under obligation to pay or refund the whole or part of the passage money, or to refund or work out any advances made to them, after their arrival at their place of destination; neither can they be restricted in the selection of their occupations or places of residence in the foreign land.

15149

Sec. 23. The forwarding and making contracts to forward:

(a) Of persons owing military duty of the age beginning with 17 and ending with 25 years, before they have procured a certificate of discharge (section 14 of the law about acquiring and losing German citizenship of June 1, 1870) or a certificate of the commission for substitutes, showing that their military duty does not interfere with their emigration.

(b) Of persons whose arrest has been ordered by any court or police authority.

15150

(c) Of German citizens for whom the passage money has been paid wholly or in part, or who have received advances from foreign governments or colonial societies or similar agents—are prohibited (Exceptions to this can be granted by the Imperial Chancellor).

Sec. 24. Emigrants who do not possess the necessary certificates mentioned in section 23, or who belong to the class of persons mentioned in *b* and *c* of the same section, may be prohibited from leaving the

Empire by the police authorities. The police authorities in the seaports are authorized to prohibit the grantee from shipping persons whose forwarding is prohibited by this law.

V.—Special Regulations for Sea Transportation of Emigrants to other than European Countries.

Sec. 25. Contracts regarding sea transportation of emigrants must include transportation and board to and including the foreign port of landing. The same is to be extended to the transportation and boarding from the port of landing until the place of destination, as required by the granting of permission (section 1). If the emigrants take passage in a foreign shipping port (not German), or if a change of ships has to take place, these must be mentioned in the contract.

15152

Sec. 26. The sale to emigrants of passage tickets from a transoceanic place is forbidden. This prohibition does not apply, however, to contracts under which the grantee agrees also to forward the emigrants from transoceanic ports.

Sec. 27. The grantee is obliged to board and lodge the emigrants at the appointed place of forwarding or shipping without cost, if the delay of departure is not caused by the emigrant.

15153

Sec. 28. If the delay lasts longer than a week, the emigrant has the right to withdraw from the contract and to demand the restitution of his passage money.

Sec. 29. The restitution of the passage money can be demanded also if the emigrant or any member of his family accompany him should die before the beginning of the sea voyage, or if he can prove that by sickness or other circumstances beyond his control he is prevented from undertaking the sea voyage. The

same refers to cases concerning the restitution of the corresponding part of the passage money where, according to section 26, the forwarding from a transoceanic port of landing is prevented. The return of one-half of the passage money can be demanded if the emigrant withdraws from the contract for other reasons before the voyage begins.

15155 Sec. 30. Should the ship by accident or any other cause be prevented from continuing the voyage, or by such causes is delayed on the voyage, the contractor (section 1) is bound to furnish the emigrants sufficient lodging and board, and to forward them and their baggage to the place of destination as soon as possible. This ordinance applies also to the forwarding from the transoceanic port of landing (section 26).

Sec. 31. Agreements contrary to the conditions of sections 27-30 have no legal force.

Sec. 32. The grantee can be compelled to insure his obligation arising from the sections 27-30, in a sum exceeding by one-half the amount of the passage money, or to deposit an amount sufficient to cover this sum.

15156 Sec. 33. Grantees are responsible for the seaworthiness of the ships by which the emigrants are conveyed, as well as for their proper provisioning, as prescribed by law. These obligations also rest upon the captains of the ships.

Sec. 34. Every emigrant ship, before entering upon its voyage, is subject to inspection as to its seaworthiness, outfitting arrangement, and supplies of provisions. This examination is conducted by official inspectors appointed by the respective governments.

Sec. 35. Before the departure of the ships, the emigrants and ship's crew must be examined as to their

health by a physician appointed by the emigration authorities (section 40).

Sec. 36. The Federal Council creates ordinances covering the condition, arrangement, outfit, and supplying with provisions of emigrant ships, and official inspection and control of the same, and the sanitary inspection of the passengers and crews before embarkation, the exclusion of sick people, the management of embarkation, and the protection of emigrants in regard to health and morality. The ordinances promulgated by the Federal Council are to be published in the law paper of the Empire, and to be submitted to the Reichstag at its next sitting. 15158

Sec. 37. As emigrant ships, in the sense of the law, are to be considered all vessels sailing to other than European ports and carrying—not considering the cabin passengers—at least twenty-five passengers.

VI.—*Authorities of Emigration.*

Sec. 38. For the assistance of the Imperial Chancellor in executing the duties and rights pertaining to his office in regard to emigration affairs, a council of competent persons, consisting of a president and at least fourteen members, is created. The president is appointed by the Emperor, and the members are elected by the Federal Council. Every two years a new election of members takes place. In general, the organization of the council is regulated by the Federal Council, and its actions by a self-made order of business. 15159

Sec. 39. This council must be consulted before permission is granted for enterprises the object of which is the settlement of particular parts of transoceanic countries, as well as in limiting or revoking the license

15160

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of a grantee. Besides this, the Imperial Chancellor may bring before this council, for consideration, proper and important questions about emigration, and motions can be brought by the council before the Imperial Chancellor.

Sec. 40. For the supervision of emigration and the proper execution of the ordinances thereof, emigration officials are to be appointed by the respective state governments in seaports where grantees have been licensed.

15161

Sec. 41. In the seaports, the Imperial Chancellor causes the supervision of emigration by commissioners appointed by himself. These commissioners are empowered to assist in the inspections provided for in Section 34; also, to undertake independent inspection of emigrant ships. They have to call the attention of the state governments to discovered defects and violations, and insist upon their being remedied. The captains of emigrant ships are compelled to give the commissioners, when asked for, a truthful statement about all the circumstances connected with the ship and the voyage, and to permit them at any time to enter the ship's rooms and examine the ship's papers. In foreign countries, the duties of the commissioners.

15162

for the protection of the German emigrants, are executed by the authorities of the Empire, to whom, if necessary, assistant commissioners can be attached.

VII.—*Forwarding from Ports outside of Germany.*

Sec. 42. By Imperial order, with the consent of the Federal Council, ordinances of the kind mentioned in section 36 can be issued for the regulation of forwarding emigrants and passengers in German vessels sailing from other than German ports.

VIII.—*Fines.*

Sec. 43. Grantees (§1) who violate the ordinances of sections 8, 22, 23, 25, 32 and 33 (see subdivision 1) or the ordinances issued for the management of their business by the competent authorities, are liable to a fine of 150 to 6,000 marks or imprisonment up to six months. If the violations have been committed by a substitute (section 9) the latter is amenable to punishment; the grantee is likewise amenable with him if the violation has been committed with his knowledge, or if he has failed in the necessary care and supervision of his substitute as far as it was possible under the circumstances. The same fine is imposed upon ship captains who violate the obligations imposed upon them by section 33, subdivision 2, and section 41, subdivision 3, or the ordinances issued under section 36, without distinction as to whether the violation has been committed in the inland or in foreign countries.

15164

Sec. 44. Agents (section 11) who violate the provisions of sections 15, 16, 17, 22 subdivision 2, and 25, or the ordinances issued for the management of their business by the competent authorities shall be punished with a fine of from 30 to 3,000 marks or with imprisonment up to three months.

15165

Sec. 45. Any one forwarding emigrants without permission under sections 1 and 11, or who makes it a business to assist therein shall be punished with imprisonment up to one year or with a fine up to 6,000 marks, or by either of these punishments. The same punishment shall be imposed upon those who make it a business to induce emigration.

Sec. 46. Whoever violates the provision of section 26, subdivision 1, shall be punished with a fine up to 150 marks or with imprisonment.

15166

Defendants' Exhibit 20

Sec. 47. Violating the ordinances issued under section 42 shall be punished with a fine of from 150 to 6,000 marks, or with imprisonment up to six months.

Sec. 48. Whoever induces a female to emigrate for the purpose of mercenary prostitution by evilly concealing this purpose, is subject to imprisonment in the state prison up to five years. Besides such imprisonment, the loss of civil honor and rights is to be decreed, also a fine of 150 to 6,000 marks may be imposed, as well as subjection to police supervision. The same punishment shall be imposed on the person who, with knowledge of such contemplated purpose, intentionally assists in the emigration of the female. Under mitigating circumstances, the punishment may be reduced to not less than three months' imprisonment and a fine of 150 to 6,000 marks.

15167

Final Provisions.

Sec. 49. The names of the authorities, which in each federal state shall be designated as supervising authority, higher administrative authority, police authority, shall be published by the central council.

15168

Sec. 50. This law shall become operative on April 1, 1898, and simultaneously the license for the purpose of forwarding or assisting in the forwarding of emigrants issued under the provisions of state laws shall cease.

IMPERIAL LAWS 1898, pp. 39-56.

(No. 2451) *Ordinance respecting Regulations concerning the Business of Emigration Principal and Agents. Of March 14, 1898.*

On this basis of §21 of the Law concerning Emigration of June 9, 1897 (Imperial Laws, p. 463). The Federal Council in its session of March 14, 1898, has made the following Regulations concerning the Business of Emigration Principal and Agents:

(The important provisions of this ordinance are as follows:

15170

This ordinance prescribes the blanks that have to be used by the principals, separate for each ship.

A written contract in the German language must be entered into between the principal and the emigrant. Section 5 of the ordinance prescribes very detailed provisions that must be contained in such contract. In case the emigrant is to be shipped to a place beyond the port of embarkation, additional provisions must be contained in such contract, as prescribed by said ordinance.

Section 7 contains different provisions in case the port of embarkation is outside of Germany and the emigrants only come from or travel through Germany.

15171

Section 17 contains provisions in regard to the business of the agents, providing that in each case the agent has to give a receipt, the contents of which are fixed by Section 17 of the law. Prescribed blanks must be used for such receipts, and copies thereof must be preserved and bound in books, duly paged and numbered.

15172

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Section 23 provides that the principal has to fix a certain price, and such price cannot be exceeded by the agent or the principal. The principals have to keep all letters written to the agents and vice versa, and the correspondence is subject to inspection of the authorities.

Section 36, following, of the ordinance contain provisions regarding the security to be given by the principals and agents and what claims shall be satisfied therefrom.)

15173

IMPERIAL LAWS, 1898, pp. 57-92.

(No. 2452) *Ordinance respecting Regulations concerning Emigrant Ships. Of March 14, 1898.*

On the basis of §36 of the Law concerning Emigration of June 9, 1897 (Imperial Laws, p. 463), the Federal Council in its session of March 14, 1898, has made the following regulations concerning emigrant ships:

15174

(This ordinance contains detailed provisions regarding the standard and equipment of the ships, and also regarding the food to be given to the emigrants and to their care, in case of sickness and otherwise; also in reference to medical examinations and the amount of provisions and drugs and life saving appliances that must be on board.)

*LIST OF EMIGRATION PRINCIPALS LI-
CENSED, PURSUANT TO THE EMI-
GRATION LAW OF JUNE 9, 1897.
(April 9, 1898.)*

(Goetsch's Emigration Law, Supplement J.)

The Imperial Chancellor, in accordance with the provisions of the Emigration Laws, published the names of the principals authorized by the German government to engage in Emigration business. According to the publication by the Imperial Chancellor, of April 9th, 1898, there were 14 principals licensed.

15176

One of the principals authorized is the North German Lloyd Company of Bremen; the ports from which and the countries to which emigrants can be forwarded are specified therein, as follows:

The North German Lloyd can carry emigrants from the following ports: Bremen, Bremerhaven, Brake, Nordenham, Hamburg, Cuxhaven, Rotterdam, Antwerp, London, Southampton, Plymouth, Havre, Cherbourg, Amsterdam.

The countries to which the emigrants may be carried are: Great Britain, Canada, United States of America, the Argentine Republic, Paraguay, the three southern states of Brazil (Parana, Santa Catharina, Rio Grande do Sul), Uruguay, Egypt, Transvaal, Cape of Good Hope, the Continent of Australia, Natal. To other states than the three southern states of Brazil, the Lloyd can only carry non-German emigrants; likewise to Cuba and Mexico.

15177

Special conditions were imposed as follows upon this principal:

- (a) Emigrants coming from Germany shall not be carried who shall be sent as settlers to

15178

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countries outside of Germany by an Emigration contractor or similar company not licensed in Germany.

(b) The provisions regarding the Emigration ships, of March 14th, 1898, shall also be applicable beginning from July 1st, 1898, regarding the carrying of emigrants by ships destined for Great Britain, even if, not counting cabin passengers, the ships should carry less than 25 passengers.

15179 The Lloyd was further allowed to carry emigrants to Cape Colony, the Transvaal and Natal, on ships of the German East African Line; also between Bremen and London on ships of the Steamship Company Argo; and from Southampton on ships of the English Union Castle Line.

15180 The Hamburg-American Line has been licensed to carry emigrants from Hamburg, Cuxhaven, Bremen, Bremerhaven, Brake, Nordenham, Geestemünde, Stettin, Swinemünde, Rotterdam, Antwerp, Amsterdam, Vlissingen, London, Southampton, Plymouth, Grimsby, Havre, Cherbourg, Genoa, Naples, Boulogne, to Great Britain, Canary Islands, Cape Verde Islands, Egypt, Transvaal, Natal, Cape of Good Hope, Azores, Canada, United States of America, three southern states of Brazil (Parana, Santa Catharina, Rio Grande do Sul), Uruguay, Paraguay, the Argentine Republic, the Continent of Australia; and emigrants by way of sea also to the Netherlands, Belgium, France, Spain, Portugal, Italy. (To other states than the three southern states of Brazil, as well as to Cuba and Mexico, only non-German emigrants may be carried.)

The Hamburg-American Line has been generally authorized to carry emigrants also on ships of the

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15181

Hamburg-South American Steamship Company and by the Sloman ships. Also to carry emigrants from Hamburg to Great Britain, namely, to London, on ships belonging to the Kirsten Ship Line, to Grimsby on ships of the Great Central Railway, to West Hartlepool on ships of the West Hartlepool Steam Navigation Company; finally, to the Cape of Good Hope and the Transvaal, as well as Natal, between Hamburg and London on ships of the Kirsten Ship Line, and from London on ships of the Union Castle Line.

F. Missler, of Bremen, is also named as one of the licensed principals, with the right to carry emigrants from Bremen and ports immediately surrounding Bremen to the United States of America, to Canada, to the three Brazilian States of Parana, Santa Catharina, Rio Grande do Sul, to the Argentine Republic, Cape Colony, Transvaal, and the Continent of Australia, to Great Britain and to the Hawaiian Islands. (To the latter, however, it can only carry emigrants who are not German citizens, and are provided with passports.) To the Hawaiian Islands, ships of the firm of Pfluger and Company of Bremen shall be used.

15182

The Hanseatic Colonization Company, of Hamburg, is another licensed principal named in the publication. Special conditions are imposed upon such Colonization Company. Among others, the number of the emigrants to be carried per annum cannot exceed the number to be allowed by the Imperial Chancellor, after hearing the Company and in consideration of the conditions prevailing in each year. The Company is bound to return emigrants without means to their former place of residence, free of charge, if for any reason they cannot be carried, and further to take proper care of the widows and orphans of the German emigrants after they have reached the port of

15183

15184

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destination, until they arrive at the place of settlement, or if this cannot be done, to return the same to their former place within Germany.

15185

The Company is further obliged to enter into a contract with the emigrants regarding carriage, food, and, after arrival at the place of colonization, covering the period of at least a month. Furthermore, the Company is obliged to see that the emigrants shall receive remunerative employment for three days in each week after arrival, and can sell the necessities of life to the emigrants only at cost. Only such real property can be sold to the emigrants as is suitable for their profitable existence. If the property assigned to the settler should turn out to be unsuitable, notwithstanding any claim for damages he may have against the Company, the Company shall assign to him another suitable property and release him from his obligations regarding any property that may be unsuitable. The Company is further obliged to erect churches and schools in the country to be settled and to furnish gratuitously real estate necessary for such purpose, to employ doctors and druggists.

15186

The circulars and prospectuses to be used by the Company must be submitted to be Imperial Chancellor for approval. The purchase price of the real estate intended to be sold to the emigrants must be fixed and approved, and if credit for such payment is given, interest can only be charged after the expiration of the second year, etc., etc.

And a number of other provisions regarding further protection of such settlers.

La Compagnie Generale Transatlantique, the Red Star Line, White Star Line, Cunard Steamship Company, American Line, and others are also mentioned in the list of principals licensed.

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15187

Copy

Berlin, March 14, 1903.

The Minister of the Interior.

IV a 63.

Since it has been ascertained that numerous Russian emigrants try to evade the control regulations which are to be observed on the frontier line by pretending that they desire to emigrate to England while in reality America is their place of destination, the regulations referring to the admission of Russian emigrants to America, especially as prescribed in my—the Minister of the Interior—decree of October 8, 1893—J. B. 7248—is extended to Russian emigrants to England with the provision that the amount of cash which must be shown has been fixed at Mks. 100 for healthy persons at the age of more than 10 years, and Mks. 50 for younger people.

15188

The provisions of our decree of September 18th, 1894, M. D. J. I. B. 6536-pp apply, insofar as the transportation of such Russian emigrants to England is attended to by the two German steamship companies: The North German Lloyd, and the Hamburg-American Line.

Minister of Clerical Instruction
and Medicinal matters.
(Signed) Foerster.

15189

The minister of the Interior, signed Kitzing
The minister of Commerce & Labor, signed Lohmann

The minister of Public Works, per (illegible)

To the District Presidents

at

Koenigsberg, Gumbinnen, Marienwerder,
and Posen.

15190

Defendants' Exhibit 20

Berlin, March 14, 1903.

Copy ad II 4002,
Minister of the Interior
Iv. c. 63 Ang. 2.

15191

In recent years travelers coming from Russia have been regarded as emigrants at the frontier control stations repeatedly, although a closer examination of the situation revealed that they were not emigrants and therefore not subject to the regulations enacted for such emigrants. Consequently, at various times diplomatic negotiations with foreign countries, of an undesirable nature, were necessary.

In agreement with the respective Ministers, I therefore decree herewith that in those cases where travelers object to their treatment as emigrants to the Executive Police Officials, that they immediately report to their superiors—if necessary, by telegraph—in regard to this, and their superiors must hereupon immediately examine the situation and decide accordingly.

15192

In this connection I especially emphasize how important it is, that only careful and tactful officers are stationed at the frontier, and who, if possible, shall also possess the necessary knowledge of languages, so as to be able to converse with the traveling public.

Insofar as the officials in question are appointed or confirmed by your Honor, I beg you to continue to pay the most careful attention to these points, also in the future.

Likewise will you kindly see to it that only prudent tactful persons, having a knowledge of languages, are selected as the agents who are to be appointed by the two German Steamship Companies, in conformity with the decree of September 18, 1894—M. d. I. I. B. 6535 pp.

Defendants' Exhibit 20

15193

It has also been shown that the Russian emigrants pass the frontier very often at other places, evading the control stations. I therefore beg your Honor to instruct the police officials subject to you that they pay special attention to such emigrants and see to it that the regulations passed in this connection by the decree addressed to the Provincial presidents of January 16, 1896—I B 11781, Ang. 2 be strictly carried out.

At the same time the District Presidents at Marienwerder and Posen shall kindly consider whether they could perhaps enact police regulations for the better observance of the control, in conformity with the copy of the attached decree for the government district Gumbinnen of December 23, 1898, which same decree has also been issued for the government district of Königsberg.

15194

Furthermore, the stipulations fixed elsewhere, by the decree of the 14th inst. M. d. I. IV. c. 63 Ang. 1 pp. for emigrants to England in regard to cash funds, must also be taken into consideration here.

I look forward to receiving your kind notice within six months in regard to the observance of this decree.

By order of

(signed) VON KITZING.

15195

It is herewith certified that the foregoing two decrees are authentic and that the regulations contained therein were enacted by the Royal Prussian Government, in the interest of charity, of safety and police sanitation.

The decree of March 14, 1903—IVc. 63 in regard to the treatment of the Russian emigrants allegedly traveling to England, however, has been cancelled by
IV c 3369
the decree of February 26, 1905 II b 1846, which

*Defendants' Exhibit 20***15196**

has placed the emigrants mentioned on the same plane as the other emigrants passing over the Prussian-Russian frontier, also in regard to the cash funds to be demanded shown by them.

Berlin, February 13, 1913.

(Seal.)

The Royal Prussian Minister of Public Works, per
Szyskowitz.

The Royal Prussian Minister for Commerce and
Trade, per Lusensky.

15197

The Royal Prussian Minister of the Interior, per
(illegible).

IV. c. 231 M. d. J.

II. C. p. 287 M. d. o. A.

II. b. 1255 M. f. H.

II G. 1013 13.

The foregoing signatures of the representatives of the Royal Prussian Minister of Public Works, for Commerce and Trade, and of the Interior, are hereby certified.

Berlin, February 17, 1913.

15198

The Foreign Office of the German Empire,
per

(signature illegible)

(Seal.)

Embassy of the United States of America,
Berlin. Seen for authentication of the
foregoing signature, this 17 day of Feb-
ruary, 1913.

WILLING SPENCER,
Secretary of Embassy.

(Seal.)

Regulations

in regard to

the transportation of Austrian Hungarian emigrants to Bremen and Hamburg, in force from October 1, 1903.

I. Route, Tickets and Ticket Rate reduction.

The emigrants from Austria-Hungary, in order to avoid contact with the control station Ruhleben near Spandau, destined for Russian emigrants, are generally conducted over Kohlfurt-Frankenberg-Magdeburg-Lehrte, in the following manner:

15200

a. Party trips.

The emigrants, who desire reduction in price for party trips through the Prussian territory, are gathered at the control stations Myslowitz and Ratibor by the representatives of the Hamburg American Line and the North German Lloyd, so that at least 30 persons are transported in one train (German Railroad Personal and Package Tariff, Part 1 Par. 11, Art. IV). The reduction is granted in the manner that the emigrants are transported on IV. Class tickets in the 3rd railroad class. For this purpose the tickets bought in Myslowitz and Ratibor, as well as those bought at foreign ticket offices direct to Bremen and Hamburg, of the IV Class bear the rubber stamp.

15201

"Good as party ticket 3. Class via Magdeburg."

(The additional clause "via Magdeburg" is necessary, because the tickets for ordinary transit apply to via Berlin.)

Direct tickets of higher railroad classes are exchanged at the control stations against reimbursement of the difference in rate against tickets of the IV. Class.

15202

*Defendants' Exhibit 20**b. Individual trips.*

The transportation of *individual* emigrants "via Falkenberg-Magdeburg" is assured in the manner that the designation of route stamped on the direct tickets to Hamburg and Bremen via Berlin are crossed out at the control stations, and in place of this the cards are stamped "Emigrant card via Magdeburg."

*II. Transportation.**a. With ordinary public trains.*

15203

The aforementioned emigrants, who travel without a reduction in price, may use any train for which the ticket is valid in public transit. It is, however, just as much in their own as in the interests of the railroad administration, that they use only train connections, which require the least transferring and stops. At this time only train 216 from Ratibor and Train 230 from Myslowitz are to be recommended; the station officials in Ratibor and Myslowitz, therefore, shall recommend this connection and dissuade from others.

b. With special trains.

15204

For party trips, with reduction in price, if there are present the minimum number of 30 ticket holders, the special train 1390 is to be used in Ratibor, the special train 1390a in Myslowitz, which, beginning from Kandrzin shall be continued as one train No. 1390, but not permitting more than 50 axles (including baggage cars). If there are not enough seats in the train, the remainder of the company must stay back until the next day's special emigrant train, unless they prefer to continue their trip without a reduction in rate. Later trains (second sections) are not to be used.

Defendants' Exhibit 20

15206

The admittance of emigrants at intermediate stations and the admittance of other travelers at the stations of departure or intermediate stations is absolutely forbidden.

III. *Reports.*

As train 1390 is put into use more often than not at the present time on the route Kandrzin-Kohlfurt, until further notice its omission, not its employment on this route, shall be reported each time. (Schedule V., Par. 24.)

15206

In regard to trains 1390 and 1390a there shall be reported from station Ratibor and Myslowitz latest at 5 o'clock in the afternoon to Station Kandrzin and from there to Station Breslau and Kohlfurt the number of axles for Hamburg and the number for Bremen; furthermore it shall be reported from Ratibor and Myslowitz to Kandrzin and from there to Station Hamburg H the number of emigrants destined for there.

The telegrams to be sent from Kandrzin shall read:

Station V Breslau O/S and Kohlfurt.

Today with train 1390 Axles for Bremen and
.... Axles for Hamburg from here.

15207

Stat. V.

Station V. Hamburg H.

Today with train 1390 emigrants for Hamburg from here.

Stat. V.

In order to avoid that more than 50 axles (including baggage cars) are combined for train 1390 from Kandrzin, Myslowitz must inform Station Ratibor latest at 4 o'clock in the afternoon of the number of the axles carrying emigrants in train 1390a.

15208

Defendants' Exhibit 20

Further report is made from Station Kohlfurt as per instructions of the Royal Railroad Management Halle.

IV. Formation of Trains. Route signs.

For special trains 1390 and 1390a III. Class Passenger cars with airbrakes, if possible with toilet and in winter with steam heat are to be used. The trains are to be provided with 51% brake axles.

15209

On both lengths of the cars destined for Hamburg in train 1390 (1390a) a route (direction) sign is to be attached, having a white inscription on a red background; on the front side: "Only for emigrants from Myslowitz or Ratibor to Hamburg;" and on the other side: "Immediately back to Kandrzin empty."

The cars destined for Bremen shall carry the same signs, but with the difference that the white inscriptions: "Only for emigrants from Myslowitz or Ratibor to Bremen" and "Immediately back to Kandrzin empty" shall be on a green background.

15210

In conformity with these direction signs, the representatives of the steamship companies shall supply the emigrants traveling to Hamburg with red-white badges for immediate recognition of their destination and to avoid that other emigrants (Russians) or other travelers enter the emigrant cars.

The cars intended for Hamburg are to be put at the head of the train.

V. Train power and employes for train 1390a and 1390.

The locomotives with employes are to be provided by Railroad Workshop	Myslowitz to Kandrzin.
"	Ratibor to Kandrzin.
"	Kandrzin to Breslau.
"	Breslau Bl. to Kohlfurt.

Defendants' Exhibit 20

15211

The train attendants are provided by:

Station Ratibor to Breslau.

" Myslowitz to Kandrzin and if train 1390
does not run between Ratibor and
Kandrzin, to Breslau Station Breslau to
Kohlfurt.

VI. Schedule.

The Schedule of the special trains is as follows:

Train 1390.

Ratibor		Leaving	5.10
Kandrzin	at	5.56	" 6.06
Brieg	"	8.07	" 8.13
Breslau	"	9.02	" 9.09
Liegnitz	"	10.12	" 10.16
Kohlfurt	"	11.24	" 11.30
Falkenberg	"	2.02	" 2.07
Wittenberg	"	2.57	" 3.02
Magdeburg H	"	4.40	" 4.45
Braunschweig	"	6.19	" 6.24
Lehrte	"	7.30	" 7.50
Hannover	"	8.10	" 8.15

Train 1390a.

Myslowitz (leaves)	4.25
At Kandrzin	5.55
Leaves Lehrte	7.45
At Harburg	10.49
leaves	10.50
Hamburg H. at	11.08

15212

(With less than 10 axles emigrant cars)

15213

Passenger train 830/304

Lehrte leaves	8.04
At Hanover	8.27
Leaves	8.37
Bremen at	11.40

Passenger Train 810

Lehrte leaves	8.19
Harburg H. at	12.43
leaves	12.46
Hamburg H. at	1.05

2. III. 9/319.

15214

Defendants' Exhibit 20

Copy.

10.

The Minister of the Interior.

IV. c. 3327.

Berlin, February 13, 1904.

In view of the increasing importance of the return immigration from North America, it has been found necessary to provide for special police measures to protect the through transportation of foreign return immigrants through this territory.

15215

The through transportation of those return immigrants who are neither German citizens nor have ever been such, is therefore made conditional on the steamship company, that has assumed the return transportation, agreeing to return these passengers free of charge in the direction of their former home to beyond the outgoing frontier and to guarantee that through their return transportation, housing, boarding or burial no expense will accrue to either the German Empire nor to Prussia, a Prussian community or a Prussian Charity Organization, but in case this should nevertheless happen, to refund the expenses involved.

15216

To carry out these provisions the aforesaid return immigrants, inasfar as they return in large numbers and have the same destination, are to be through transported in closed troupes, whether in special trains or in special return emigrant cars, which are to be switched on to a certain train, through Prussia, further arrangements in regard to which must be made with the Royal Railroad Administration.

Should such a closed return transportation not be feasible, the return emigrants in question are to be provided with legitimation papers, from which the above obligation of the Company can plainly be seen.

Awaiting your kind reply, whether the Direction (Management) is willing to comply with these instructions, I beg to remain

(signed) HAMMERSTEIN.

To the
Management of the North German Lloyd
in Bremen.

Defendants' Exhibit 20

15217

Copy

11.

The Minister of the Interior,
IV. c. 3660.

Berlin, April 21, 1904.

In view of the conferences had between representatives of the Management (Direktion) and my referee, in pursuance with my letter of February 13 of this year IV. c. 3327 I herewith agree that the non-German return emigrants, who are not transported home in closed troupes, shall be given as legitimation paper a certification, from which can be seen that, and the day when they arrived at a German port with a vessel of the company. These certifications shall further contain the following:

15218

"Issued in conformity with the decree of the Prussian Minister of the Interior of February 13, 1904, c. 3327."

I assume in this connection that the Management declares its willingness to give guarantee for such non German return emigrants in accordance with my aforementioned letter on the basis of such certifications, who will become dependent on our officials or communities. In this connection I will recognize that it appears desirable, and is not more than fair, to limit this obligation to a certain period of time. Therefore, with the right of revocation I agree that the Management can only be called upon to make good, on strength of the certifications issued by the company, if within 8 days after his landing in a German port, a return emigrant causes expense of the kind mentioned in my aforementioned letter of February 13th, this year.

15219

I request the Management to accept these propositions and at the same time to submit to me a form of the certifications to be issued accordingly.

(signed) HAMMERSTEIN.

To the
Management of the North German Lloyd,
In Bremen.

15220

Defendants' Exhibit 20

Copy.

6.

Berlin, Sept. 20, 1904.

The Minister of the Interior,

IV. c. 5097

Ministry for Trade and Commerce II b. 8271.

The enclosed regulations in regard to the transportation of non-German emigrants via the Prussian frontier you receive herewith for your guidance, with the following remarks.

15221

Deviating from the regulation of the circular decree of the Minister of the Interior of October 8, 1893, I. B. 724⁸ who signs below, the new regulations refer not only to Galician emigrants but—aside from the Russians—to all non-German emigrants, and do not only apply to the emigration to North America, but to all emigration across the ocean.

In future every emigrant will be released from visiting the registration stations, who, besides having complied with the other conditions of the "Regulations" has closed a transportation agreement, with a steamship company concessioned in Germany, regardless of whether it is a German or a foreign company.

15222

The German steamship companies of themselves have neither the right nor the obligation to accept passengers of foreign steamship companies that are concessioned in Germany, in the registration stations which they have erected and maintained. We reserve the right, however, in certain cases, to concede to such requests on the part of the companies, or to impose such an obligation on them, according to conditions which must be gone into further. The obligations, which the German steamship companies assume for each emigrant entered in the Register, remain in force, even if that emigrant were transported by another company.

Defendants' Exhibit 20

15223

The previous special regulations in regard to the emigrants transported by the German Central Committee for Russian Jews have been cancelled, as this Committee has ceased to exist since 1898.

We respectfully request your Excellency to instruct the Police Administrations controlled by you accordingly and to impose upon them the duty of strictly carrying out the regulations. In this contention, we especially emphasize that the agents of the steamship companies have, of course, no governmental authority and that, should they try to assume such, they be repulsed most positively. On the other hand, the endeavor of the agents, to carry out the instructions of the regulations should be supported in every manner and in every instance where emigrants try to evade these regulations, there should be emphatic intervention.

15224

Emigrants, who, violating the "Regulations," evaded the registration station, are to be stopped and sent back to their own country, if they do not voluntarily proceed to one of the registration stations in Ratibor, Myslowitz and Leipzig, or to the control station Ruhleben near Berlin.

The Minister of Trade and Commerce
per (signed) V. d. Hagen.

The Minister of the Interior
per (signed) V. Kitzing.

15225

15226

Defendants' Exhibit 20

TRANSLATION.

Copy.

II.

REGULATIONS

in regard to the transportation of non-German emigrants via the Prussian frontier.

To regulate the transportation of non-German emigrants over the Prussian frontier, the following is ordered:

15227 Admittance to the Prussian State ground may only then be allowed if the emigrants possess a transportation contract with a steamship company concessioned in Germany for the passage to a non-German debarkation port, a railroad ticket to the embarkation port and sufficient cash, to assure their admittance at their destination, or in case of their rejection at their destination, the return-transportation to their home. In this connection, as hitherto, for healthy and not weakly persons over 10 years a sum of M. 400 each, for younger people, a sum of M. 100 each shall be deemed sufficient.

15228 All non German emigrants, who do not comply with these conditions must pass a registration station, as they exist at this time in Myslowitz and Ratibor.

The equipment and the operation of these registration stations are subject to the special regulations issued in regard to them.

Inasfar as registration stations have been provided in other German Federal States in accordance with the same principles, the passing through such station is also sufficient for the transportation through the Prussian State Ground.

The foregoing regulations do not apply to emigrants who pass the Russian-Prussian frontier, and the control stations there. In regard to these emigrants, the former regulations are the only ones that apply.

Defendants' Exhibit 20

15229

Furthermore, these regulations enter into force, voiding all former, contradictory regulations, for all non-German emigrants, irrespective of whether they are transported by domestic or foreign steamship companies.

Berlin, September 20, 1904.

The Minister of Trade and Commerce,
per (signed) v. d. Hagen.

The Minister of the Interior
per (signed) v. Kitzing.

15230

TRANSLATION.

Copy.

5.

REGULATIONS

in regard to the passing of non-German emigrants over the Prussian-Russian frontier.

To regulate the passing of non-German emigrants over the Prussian-Russian frontier, it is herewith decreed as follows:

The admittance to Prussian state ground is only then to be allowed if the emigrants possess

15231

a proper pass

a transportation agreement for the journey to a non-German debarkation port with a steamship company, concessioned in German,

a railroad ticket to the embarkation port

and sufficient cash funds, to guarantee their acceptance at their destination, or in the case of being rejected there, the return transportation to their home. In this connection, healthy and not weakly persons of more than 10 years, must have a sum of M. 400, younger persons a sum of M. 100 each.

15232

Defendants' Exhibit 20

All non-German emigrants, who, when passing the Prussian-Russian frontier do not comply with these conditions must pass a control station, as exists for instance, in Bajohren, Tilsit, Eydtkuhnen, Insterburg, Prostken, Illowo, Ottlotschin, Posen and Ostrowo.

The equipment and the operation of these control stations are subject to the regulations issued in regard to them.

The foregoing regulations are in force, voiding all contrary former regulations for all non-German emigrants who pass the Prussian-Russian frontier, without regard to whether they are transported by native or foreign steamship companies.

15233

Berlin, February 26, 1905.

The Minister of Trade and Commerce
per (signed) Lohmann.

The Minister of the Interior
. (signed) v. Hammerstein.

TRANSLATION.

7.

INSTRUCTIONS

15234 in regard to the arrangement and the operation of the emigrant registration station in the government district *Oppeln*.

The arrangement and the operation of the emigrant registration stations erected, by state approval, in Rati-bor and Myslowitz by the German Steamship Companies, the North-German Lloyd in Bremen and the Hamburg American Line in Hamburg, is to conform with the following regulations, as well as with the special instructions, as such may still be issued by the undersigned government district president.

Defendants' Exhibit 20

15235

1. The emigrants passing the Austrian frontier, who do not comply with the regulations issued by the Minister of the Interior and the Minister of Trade and Commerce in regard to the transportation of non-German emigrants over the Prussian frontier of Sept. 20, 1904 (M. Bl. f. d. i. V. S. 276) are to be conducted by the police officials guarding the frontier transportation to the registration station at Myslowitz and Rati-bor, *i. e.* always to the nearest station.

2. The decision, whether the emigrants who have been brought to the stations by the police officials or who have voluntarily proceeded there shall be transported by the steamship companies, shall be left together with the instructions stipulated in Par. 3) to the authorized agent of the companies. If the transportation is rejected, the police officials must guard the return of the rejected emigrants over the frontier.

15236

3. The transportation of the emigrants can only be assumed if it has been determined by the physician employed by the station, that there are no sanitary objections to the transportation.

The physicians of the stations must be confirmed by the undersigned district president.

4. The emigrants taken for transportation shall be entered in the Register by the authorized agent of the steamship companies, which register must be conducted separately for each steamship company, as per the attached sample, in two copies. One of them is for the local police administration, in the district where the station is situated, the other must remain in the safe-keeping of the authorized agent of the steamship companies. The police administration is responsible for the accurate entering and tallying of both registers.

15237

5. The register shall be daily closed in two copies by the agents of the steamship companies and signed

15238

Defendants' Exhibit 20

by them and thereupon submitted to the police administration, who must immediately examine the accuracy of the entries made, and certify to it by signature and seal. An alphabetical register shall be arranged for the copy remaining with the police administration, which must contain the names and baptismal names of the persons entered in the registers, naming the page of the registration. This index must always be kept up to date.

15239

6. After the emigrants have been entered in this register, the officials of the steamship company must see to their quick departure, this, however, if possible, in the through wagons to the port of embarkation. Every registered emigrant shall first receive a legitimation card, made out as per enclosed sample, so as to avoid that the same, while passing through Prussian ground, will be stopped and rejected. This certification shall be certified by the local police administration by their seal.

15240

7. The steamship companies are obliged to attend to suitable housing and to see to it that these rooms are kept in good condition. Furthermore, they must see to it that the emigrants arriving with the evening trains and taken over by them, do not remain anywhere else than in the rooms destined for them. If these should not be situated immediately near the station, they shall immediately, without interruption, be conducted to them.

8. By the delivery of the registers signed by the agents of the steamship companies to the police officials, the steamship company in question assumes the obligation to see to it that through the transportation of the persons entered in the register, no expense will be incurred to either the Prussian State nor a Prussian community or a Prussian charity organization for

Defendants' Exhibit 20

15241

their possible return transportation, housing, boarding or burial; should this, however, occur, then the expense to be reimbursed them.

Oppeln, December 10, 1908.

The District President,
signed (Name illegible).

TRANSLATION.

8.

Copy.

15242

Minister of the Interior

IV c 3068

M. d. g. A. M. 10269

Berlin January 29, 1909.

It has been stated that persons, who with the intention of traveling steerage to America, pass over the Prussian Russian frontier in the same manner as over-sea emigrants, but who prove that they are American citizens, are treated differently in the various governmental districts.

We therefore instruct that these persons, who on the surface appear as emigrants—aside from those regulations pertaining to the cash funds required, which do not apply to American citizens, for the reason that they cannot be forbidden admittance to America on account of insufficient means of subsistence—shall be subjected to the existing regulations for Russian emigrants in those instances when they have transferred their residence or permanent domicile from America to Russia, and later, again wish to permanently settle in the United States, or another country. Whether these premises apply must be determined in the individual case with the proper care and

15243

Defendants' Exhibit 20

15244

especially be examined into them if the person involved objects to his treatment as an emigrant

American citizens, who, retaining their residence in America, have entered upon a short visit or proceeded to Russia for other transient purposes and wish to return to the United States, on the other hand, are not to be regarded as emigrants, and this not even then, if they intend to travel steerage.

We respectfully request your Excellency to kindly cause the necessary steps to be taken in this connection, as soon as possible.

The Minister of the Interior Per signed:

15245

V. KITZING.

The Minister of clerical, educational and Medical Affairs, per (signed)

FOERSTER.

To the District Presidents and the Police President of Berlin, as also the Provincial Presidents in Koenigsberg, Danzig, Posen and Breslau.

12.

Copy.

15246

Berlin, December 3, 1910.

The Minister of the Interior

IV. c. 4584. 2 Ang.

In explanation and further pursuant to the instructions communicated to the Management in my letter of February 13, 1904. IV. c. 3327, I have issued to the police officials:

"Regulations in regard to the transportation of non-German return emigrants via the Prussian frontier"

Defendants' Exhibit 20

15247

a copy of which I herewith enclose to the Management.

I herewith state in connection with No. V. of the regulations, that the privilege allowed the steamship companies concessioned in Germany in this paragraph presupposes the continuation of the guarantee obligations assumed by the Management of the North German Lloyd, based on my aforementioned letter. I further assume that the Management will also see to it in future that the return emigrants transported by your company will be transported through Prussia without stopping, if possible, in closed troupes in special trains or special cars.

signed: Signature.

15248

Management of the North German Lloyd,

BREMEN.

Regulations.

in regard to the transportation of non German return emigrants via the Prussian frontier.

I. The following regulations apply to:

A. Non-German return emigrants, who after crossing the ocean, have landed in a foreign port.

15249

B. Non German return emigrants, who while emigrating were rejected in a foreign port and not permitted to embark.

and (this refers to A and B) and afterwards, on their return trip, pass the Prussian frontier.

II. As a matter of principle, the through-trip through Prussia is only allowed the return emigrants, if it is the nearest way to their home country.

III. All railroad trains, passing the frontier and which serve passenger transportation are to be con-

15250

Defendants' Exhibit 20

trolled at the first Prussian Station where they make a longer stop, to ascertain whether they carry non-German return emigrants with them.

IV. Such return emigrants, who are transported by a steamship company concessioned in Germany (either singly, or in special trains or in special cars, and who are in possession of the certification of the steamship company in question) as such is provided in the decree of February 13, 1904—IV. c. 3327—are not subject to further control.

15251

V. Such return emigrants, who are transported by a steamship company not concessioned in Germany in *special trains* or in *special cars*, are only then allowed to pass undisturbed, if they are in possession of direct tickets to their home country or at least to a station beyond the Prussian frontier, and the special train, respectively the special car passes through, without any long stop, at intermediate stations, direct to the home country or at least to the Prussian outgoing frontier.

VI. All non-German return emigrants, who do not fall under either No. IV. nor No. V. are to be stopped by the police.

15252

This applies to:

1. The return emigrants transported by a steamship company concessioned in Germany, as far as they are not in possession of the certification mentioned under No. IV.

2. The return emigrants transported by a steamship company not concessioned in Germany, inasfar as they:

a. are provided with direct tickets to their home country or to a station beyond the Prussian outgoing frontier, but where the special train or special car used

Defendants' Exhibit 20

15253

by them does not pass through to at least the Prussian outgoing frontier without a long stop.

or b. where they are, it is true, transported in special cars or special trains, but are not in possession of a through ticket of the forementioned nature,

or c. where they travel singly in ordinary trains.

The continued trip through Prussia is only allowed the return emigrants designated under 1 and 2a to c if they are in possession of adequate cash funds, which make it appear out of the question that during their stay in the interior they will become a charge for the Prussian State, communities or charity organizations. For this, healthy and not weakly persons who are above 10 years of age, are required to have a sum of M. 100 each. Russian return emigrants must furthermore be in possession of a proper Russian pass.

15254

Return emigrants, who fulfill the conditions mentioned in the foregoing paragraph shall be caused to buy—in case they are not already provided with it—a ticket to beyond the Prussian outgoing frontier in the direction of their home, and to continue their trip. If they refuse to buy the ticket, they, as also those return emigrants, who do not comply with the above conditions, shall be ordered over the frontier by which they entered the interior, after having first been officially expelled.

15255

CERTIFICATE TO PRECEDING GENERAL ORDERS OF
PRUSSIAN GOVERNMENT, DATED AS FOLLOWS:

October 8, 1893, September 18, 1894, January 18th, 1896, January 16th, 1896, February 26th, 1905, September 20th, 1904, December 10th, 1908, January 29th, 1909, October 1st, 1903, February 13th, 1904, April 21st, 1904, and December 3rd, 1910.

15256

Defendants' Exhibit 20

IT IS HEREBY CERTIFIED that the foregoing documents contained under numbers 1 to 12 are authentic, and that the provisions therein contained were issued by the Royal Prussian Government in the interest of the protection of the poor, public security and health.

Berlin, December 21st, 1912.

The Royal Prussian Minister of
(Great Seal). Public Works.

(Signed) V. BREITENBACH.

The Royal Prussian Minister of
Commerce and Trade.

(Signed) SYDOW.

15257

The Royal Prussian Minister of
the Interior.

(Signed) DALLWIG.

The above signatures of the Royal Prussian Ministers of Public Works, of Commerce and Trade, and of the Interior, are hereby certified.

Berlin, December 23rd, 1912.

The Foreign Office of the German
Empire. By Order.

(Signed) (Illegible).

15258

Embassy of the United States of America, Berlin.

Seen for authentication of the foregoing signature this 24th day of December, 1912.

(Signed) J. C. GREEN,

Secretary of Embassy.

(Seal).

Defendants' Exhibit 20

15259

(From U. S. Daily Consular and Trade Reports.
May 16, 1911, No. 114, p. 718.)

"Returning Emigrants in Prussia.

"(From Consul General A. M. Thackara, Berlin)

"Since December last new regulations regarding the passage of returning emigrants over the Prussian frontiers have been enforced by the Prussian Government. The measures apply principally to Russians and to people from eastern Europe generally. The passage of returning emigrants through Prussia is permitted only when it is the shortest route to their native land.

15260

"The returning emigrants, unless they hold certificates issued by a steamship company that has been licensed by Germany to carry emigrants, must have a certain sum of money, must be prepared to travel in special trains or cars, and must have tickets to their homes or at least to points beyond the Prussian frontiers. Sound and healthy emigrants over 10 years old must have a sum of 200 marks (\$47.60); if under 10 years of age, 100 marks (\$23.80) is required. Emigrants returning to Russia must be provided with a Russian passport. Returning emigrants who have otherwise complied with the conditions, but who refuse to buy a ticket to a station beyond the Prussian frontiers, in the direction of their homes, will be expelled from Prussia at the frontier at which they entered.

15261

"Under the terms of the concessions granted to certain steamship companies, the latter are bonded to guarantee that the returning emigrants who have been carried by their lines will have uninterrupted and free transportation through Prussia, and to refund the Prussian Government all expenses incurred by the State or other authorities in case the emigrants become

15262

Defendants' Exhibit 20

public charges. The companies which have the concessions are: The Hamburg-American Line, North German Lloyd, Compagnie Générale Transatlantique, Red Star Line, White Star Line, Cunard Steamship Co., and the American Line. By special agreement with the Hamburg-American Line certificates are also issued to returning emigrants who have been carried by the Holland-American Line."

15263

TRANSLATION.

Copy.

Strassburg, December 31st 1910.

The Cabinet Ministers
for
Alsace-Lorraine,
Department of the Interior.

15264

The stream of emigrants from Eastern and Southern Countries of Europe, which annually pours through Germany, is recognized from a hygienic view, to be a source of considerable danger. Whereas heretofore, this traffic principally traversed the route via the Eastern Prussian Frontier, it has now been ascertained that long emigrant trains are being despatched weekly from Basle, routed through Alsace-Lorraine, for northern ports of departure. Many of the emigrants thus forwarded come from certain sections, in which peculiarly local dangerous contagious diseases exist, and because of this reason as well as of the notorious and habitual uncleanness of the emigrants, they constitute an unceasing menace to the health of the general public of the respective countries through

Defendants' Exhibit 20

15265

which they pass. Appreciating this danger, the Prussian Royal Government at first intended to arrest emigrant traffic at its frontiers, thereby preventing the passage of such emigrants through German territory, but upon reconsideration and in the interests of the German steamship companies as also because of the fact that, despite the most stringent measures, streams of emigrants continued to overflow its borders, the Prussian Government in 1893 conditionally assented to the passage of emigrants through its territory.

It was stipulated that the German steamship companies were to establish Control Stations on the Prussian-Russian frontiers where it was considered that greatest danger threatened. These Control Stations were required to be thoroughly equipped for the cleansing of emigrants and the disinfection of their personal effects. There also the emigrants were to be examined for the purpose of ascertaining whether they were suffering from contagious or other disease which would result in their exclusion from the United States of North America, in conformity with that country's Immigration Laws. The care of all persons, who first are registered, then examined and finally admitted for passage at the Control Stations, devolves upon the German steamship companies; the economic interests of which are identical with those of the police authorities and because of this, as well as for the general welfare of all concerned, these Steamship Companies have undertaken, as a duty, the defraying of the entire cost of the establishment and maintenance of these Control Stations and also the payment of whatever other expense is necessary in the event of illness of emigrants and for the return passage of those who may be rejected as unfit to travel.

15266

15267

These Control Stations have demonstrated their value, for because of the obligations assumed and the consequent supervision exercised by the Steamship

15268

Defendants' Exhibit 20

Companies, as already explained, Prussian territory has been spared much damage, which but for this precaution might have been incurred, through the introduction within its borders, of disease, poverty and crime. This became all the more apparent after somewhat similar Registry Stations had been established at the Austrian frontier. These Registry Stations differ in substance from the Control Stations principally because they are not provided with cleansing and disinfection plants with which Control Stations are equipped, nor have they the facilities for the isolation of emigrants suffering with contagious diseases. This is because the emigrants crossing over the Austrian frontier were considered as being of a higher standard than those coming by way of the other frontier and it therefore was not thought necessary to provide these Registry Stations with all the facilities characteristic of the Control Stations, but irrespective of this, all emigrants passing through the Registry Stations are subject to identically the same sanitary supervision as prevails at the Control Stations.

15269

15270

Emigrants now endeavor to elude this control by Prussia and Saxony, by travelling through Southern Germany or Switzerland, so that they may embark at the ports of Belgium and Holland. This naturally affects Alsace-Lorraine, as emigrants, travelling through that territory from Basle to Little-Bettingen, similarly menace those districts in the manner that Prussia previously was endangered, not only from a hygienic view, but also because the rejection of emigrants at the Holland and Belgian seaports would cause their return to those districts to the annoyance of their charity organizations and the disturbance of the public welfare. In view of these circumstances it seems imperative to order the establishment of Registry Stations, similar to those of Prussia and Saxony at St. Ludwig on the Alsatian and Swiss frontier.

Therefore, in order to regulate the forwarding of Non-German Emigrants across the Alsatian and Swiss frontier, the enclosed regulations are decreed.

These regulations apply to all Non-German emigrants, not only those who are bound for North America, but also those who wish to cross the Ocean to any other place.

Foreign emigrants, to be exempt from passing through a Registry Station, are required not only to comply with all the other terms of these regulations, but also to have booked passage with a steamship Company licensed in Germany, irrespective as to whether it is a German or a foreign line.

15272

The German steamship companies assume all responsibility for registered emigrants even though the emigrant is forwarded by another company.

I would request your Honor, kindly at once to issue instructions to the respective police departments named below and to impress on them the necessity of a strict enforcement of these regulations. You please will note that no official authority is vested in the agents employed by the steamship companies to manage their Registry Stations and that any attempt on their part to assume any such authority must be firmly resisted. On the other hand, the agents are to be assisted in every way possible in their endeavor to comply with the terms of these regulations, and energetic measures should be adopted against emigrants who endeavor to disregard or evade them.

15273

Emigrants who attempt in violation of these regulations to avoid the registry stations and to enter this territory in a round about way, for instance from Basle via Freiburg-Neubreisbach, are to be arrested and returned to their homes, unless they proceed voluntarily to a Registry Station.

The Under-Secretary of State.

To the

Hon. President of the

Administrative District of Collmar.

15274

Defendants' Exhibit 20

Enclosed herewith your Honor please will find a copy of the new emigration rules and regulations for your kind attention and judicial observance. So long as the Government of the Grand Duchy of Baden does not establish a Registry Station, it is to be feared that a stream of emigrants will be conveyed from Basle through Baden and attempt to enter our territory by way of Kehl. In dealing with these emigrants, the police officials will be required to act in accordance with these rules.

The Under-Secretary of State.

15275

To the

Hon. District President, Here.

Enclosed herewith your Honor please will find a copy of the new emigration rules and regulations for your kind judicial observance. In case it should develop at your locality that emigrants attempt to enter Lorraine by way of the Palatinate, I would request you kindly to notify me.

The Under-Secretary of State

(Signed:) MANDEL

To the

Hon. District-President at Metz.

I A 20003.

15276

RULES AND REGULATIONS

FOR THE TRAFFIC OF NON GERMAN-EMIGRANTS
ACROSS THE FRONTIER OF ALSACE-LORRAINE.

In order to regulate the traffic of Non-German emigrants across the frontier of Alsace-Lorraine it is decreed as follows:

Defendants' Exhibit 20

15277

Entrance into the territory of Alsace-Lorraine is prohibited to emigrants unless they hold the passage-contract of a steamship company, licensed in Germany, entitling them to transportation to a Non-German landing port, as well as a railroad ticket for transportation to the port of embarkation and are in possession of sufficient money to secure their admission into the country for which they are bound, or to pay return transportation to their homes, in case they are refused admission there.

In conformity with this, it is required that persons over 10 years of age, who are in good health and are not physically afflicted have in their possession the sum of 400 Marks each, while for younger persons the amount of approximately 100 Marks each will be deemed sufficient.

15278

Non-German emigrants, who do not comply with these requirements, will only be permitted to enter the country by passing through a Registry Station. Such a station will be established at St. Ludwig for Alsace-Lorraine.

The establishment and operation of the Registry Station is governed by special rules and regulations pertaining thereto.

Registry Stations being operated in German Federal States on a similar basis, all emigrants who have passed through them may freely pass in transit through the territory of Alsace-Lorraine.

15279

These rules apply to all Non-German emigrants, irrespective as to whether they are forwarded by domestic or foreign steamship companies.

Strassburg, December 31st 1910.

The Cabinet Ministers for Alsace-Lorraine
Department of the Interior.

The Under-Secretary of State.

(Signed:) MANDEL.

To be published in the official Central and District Gazette. L A 20003.

5093

15280

Defendants' Exhibit 21.

Dividends paid by the North German Lloyd S. S. Co.
from 1858 to 1891 incl.

	1858	loss
	1859	loss
	1860	loss
	1861	2 %
	1862	2 %
	1863	2 %
	1864	10 %
	1865	15 %
	1866	20 %
15281	1867	20 %
	1868	10 %
	1869	16 %
	1870	5 %
	1871	10 %
	1872	6.50%
	1873	4.25%
	1874	—
	1875	—
	1876	—
	1877	—
	1878	1.80%
	1879	—
15282	1880	5 %
	1881	12 %
	1882	5 %
	1883	5 %
	1884	6.50%
	1885	5 %
	1886	7 %
	1887	5 %
	1888	12 %
	1889	11.25%
	1890	7 %
	1891	—
<hr/>		
	1858-1891 =	
	34 years	205.30% average 6.04%

Defendants' Exhibit 21

15283

Dividends paid by the North German Lloyd S. S. Co.
from 1892 to 1911 incl.

1892	1.50%
1893	3 %
1894	—
1895	—
1896	4 %
1897	5 %
1898	7 %
1899	7.50%
1900	8.50%
1901	6 %
1902	—
1903	6 %
1904	2 %
1905	7.50%
1906	8.50%
1907	4.50%
1908	—
1909	—
1910	3 %
1911	5 %

15284

1892-1911

20 years

79 % average 3.95%

15285

Dividends paid by the North German Lloyd SS. Co.

From 1858 to 1891 =

34 years 205.30%

From 1892 to 1911 =

20 years 70.—%

284.30%

Average per year

5.265%

The foregoing is a correct list of the dividends paid
by the North German Lloyd, Bremen, taken from its
annual reports and covering all services.

OELRICHS & CO.

General Agents.

Defendants' Exhibit 22.

TRANS-ATLANTIC PASSENGER MOVEMENT,
1912.

Table I.

TOTALS BY LINES AND PORTS, ALSO 1911 GRAND TOTALS.

Westbound				New York.				Eastbound				Dept.	Cons.
I	II	III	Trips		Trips	I	II	III					
2625	5996	11525	40	American (Southampton)	39	1750	2474	11147	223	..	..	..	..
2664	12952	11205	47	Anchor (Glasgow)	46	2495	6115	11503	126	6	..	..	..
120	.....	9160	18	" (Medit.)	16	48	....	4865	214	223	..	..	..
2878	.....	.....	38	Atlantic Transport (London) ..	37	2118	....	....	...	...	..	..	..
1106	4759	34533	36	Austro-Amer. (Medit.Adriat.) ..	31	1205	1791	21044	1281	593	..	..	..
270	177	541	12	Co. Trasatlantica (Spain)	12	178	90	888	18	53	..	..	..
13976	17243	40611	59	Cunard (Liverpool)	54	12002	11194	26986	367	...	..	..	..
1854	5566	31854	28	" (Medit.-Adriatic)	27	4825	1101	16099	631	1485	..	..	..
715	2070	26088	42	Fabre (Medit.)	42	1139	1322	17503	511	598	..	..	..
4621	16378	49777	101	French (Havre)	90	4326	7805	32781	956	393	..	..	..
1053	1144	8568	11	Greek (Medit.)	11	253	389	4342	483	102	..	..	..
11232	23999	85327	81	Hamburg, Reg. (Hamburg) ...	72	10500	10594	28449	1245	135	..	..	..
981	2830	12486	14	" (Medit.)	15	2328	823	8307	234	278	..	..	..
5575	13507	33389	49	Holland (Rotterdam)	49	4946	4546	13569	533	...	..	..	..
319	729	8935	10	Italia (Medit.)	10	199	753	7279	188	35	..	..	..
123	1638	15308	10	La Veloce (Medit.)	9	199	486	5233	222	174	..	..	..
....	49	.....	2	Leyland (Liverpool) .....	..	....	....	....	...	...	..	..	..
217	1809	19851	18	Lloyd Italiano (Medit.)	18	292	595	8429	354	305	..	..	..
652	....	7116	7	Lloyd Sabauda (Medit.)	8	376	....	4428	136	153	..	..	..
169	2528	11113	12	National Greek (Medit.)	11	236	903	6622	346	...	..	..	..
547	1357	24272	17	Navigazione (Medit.)	17	611	822	12875	401	228	..	..	..
8315	9069	25547	34	N. Ger. Lloyd Exp. (Bremen)	35	7935	4903	18334	266	10	..	..	..
7775	17341	64509	70	" " Reg. (")	51	6792	6633	21131	662	43	..	..	..
2133	5287	28747	20	" " (Medit.)	20	2641	1927	11471	438	460	..	..	..
3737	14352	52822	53	Red Star (Antwerp)	53	3959	4198	18623	495	...	..	..	..
283	3666	20363	27	Russian (Libau, etc.)	26	240	1297	11639	199	...	..	..	..
1170	4095	12611	31	Scandinavian-Am. (Scand.) ...	30	1222	2292	11205	62	...	..	..	..
71	1052	17225	17	Sicula-Americana (Medit.) ...	17	40	344	7023	289	419	..	..	..
138	531	13938	27	Uranium (Rotterdam)	26	212	575	10836	151	...	..	..	..
6982	12657	18253	47	White Star (Liverpool)	46	6186	8006	18977	210	...	..	..	..
6031	7233	12465	34	" " (Southampton) ...	34	6142	3921	9002	146	...	..	..	..
419	1111	5623	5	" " (Medit.)	5	1831	96	3370	22	145	..	..	..
....	....	....	..	Miscellaneous (Medit.)	1	568	....	....	...	...	..	..	..
Totals					958	87794	85995	384860	11409	5838			

88751 191125 713762 1017

POOR COPY

Defendants' Exhibit 22

15289

Westbound				Eastbound						
I	II	III	Trips	Canadian Ports.	Trips	I	II	III	Dept.	Cons.
3400	15697	36105	50	Allan (Liverpool)	50	2177	5218	13394	375	...
799	8713	14286	39	" (Glasgow)	39	542	2570	3124	92	...
...	4489	7997	34	" (London, Havre)	33	....	1324	2137	101	...
416	486	2111	19	" (G'gow-L'pool-Halifax) .	18	312	115	173	...	...
32	680	1149	8	" (G'gow-H'fax-Bost.) ....	..	....	....	....	...	...
...	....	20023	22	Canada (Rotterdam)	18	....	....	121	53	...
1646	6092	12770	21	Canadian Northern (Bristol) ...	20	922	1897	5747	75	...
3827	12988	29312	43	C. P. R. (Liverpool)	42	2747	5772	14082	225	...
....	78	24504	41	" (Antwerp-London) ...	17	....	45	979	29	...
....	30	10	6	" (Bristol)	1	....	....	1	..	...
....	2250	11813	20	Cunard (London)	18	....	980	1249	61	...
....	253	784	7	French (Havre)	2	....	103	24	...	...
2434	13749	27001	46	Dom'n & W. S.-Dom'n. (L'p'l) .	45	1907	5999	10355	221	...
....	6932	9422	42	Donaldson (Glasgow)	39	....	2203	3623	58	...
11	405	6215	14	Russian (Libau) .....	..	....	....	....	...	...
18	258	13056	27	Uranium (Rotterdam) .....	..	....	....	....	74	...
12583	73100	216558	439	Totals	342	8607	26226	55009	1364	...

15290

Boston.

....	2162	2767	22	Allan (Glasgow)	21	....	818	946	20	...
2599	6864	17670	19	Cunard (Liverpool)	22	2331	3280	8027	111	...
....	....	27	1	Hamburg (Hamburg) .....	..	....	....	....	...	...
....	2112	....	40	Leyland (Liverpool)	38	37	1235	....	2	...
....	....	....	..	Lloyd Sabauda (Medit.)	1	32	....	161	...	34
....	1677	....	26	Red Star (Antwerp) .....	..	....	....	....	...	...
679	2685	8433	17	White Star (Liverpool)	18	524	1564	2646	89	...
991	3361	18719	15	" " (Medit.)	15	2087	846	9809	245	540
4269	18861	47616	140	Totals	115	5011	7743	21589	467	574

15291

15292

Defendants' Exhibit 22

TRANS-ATLANTIC PASSENGER MOVEMENT,
1912.

Table I—Concluded.

TOTALS BY LINES AND PORTS, ALSO 1911 GRAND TOTALS.

Table II.

Westbound					(Continued from preceding page.)		Eastbound						
	I	II	III	Trips	Providence.	Trips	I	II	III	Dept.	Cons.	I	
15293	269	562	9091	24	Fabre (Medit.)	18	104	79	2363	65		3400	I
					Philadelphia.							799	
	....	3702	12687	24	American (Liverpool)	23	....	2214	2497	113	...	....
	....	2657	15913	24	Hamburg (Hamburg)	22	....	1504	1297	138	...	32	
	48	221	5395	8	Italia (Medit.)	8	18	57	2794	12	25	416	
	....	48	454	3	La Veloce (Medit.)	3	12	33	1073	1	7	2625	
	....	21	347	2	Lloyd Italiano (Medit.)	3	....	13	878	2	8	....
	12	49	1388	6	Navigazione (Medit.)	7	24	50	1420	10	21	2664	I
	....	1250	15499	25	N. Ger. Lloyd (Bremen) .....	..	....	....	....	...	...	2878	
	....	....	....	..	Red Star (Antwerp)	26	....	601	....	13	...	1646	
	60	7948	51683	92	Totals	92	54	4472	9959	289	621	3827	I
					Baltimore.							....
15294	....	2558	27803	39	N. Ger. Lloyd (Bremen)	42	....	1513	2599	271	17	13976	I
					Newport News.							2599	
	138	....	356	11	"Norway Mex. Gulf" (Scand.) ..	..	....	....	....	...	...	2434	I
					New Orleans.							....
	17	32	279	13	French (Havre)	14	65	29	291	...	...	....
	274	....	....	21	Leyland (L'p'l-L'n-Havre, etc.)	15	136	....	....	...	...	274	
												138	
	291	32	279	34	Totals	29	201	29	291	...	...	1170	
					Galveston.							6082	
	....	1135	4668	14	N. Ger. Lloyd (Bremen)	14	....	627	997	355	...	6031	
											679		
	106361	295321	1071816	1810	Grand Totals, 1912	1610	101771	126684	477667	14220	7053	52570	I
	109443	275777	785943	1768	Grand Totals, 1911	1626	102333	122936	515491	12626	....	

TRANS-ATLANTIC PASSENGER MOVEMENT,
1912.

Table II.

DIVISION BY GROUPS OF LINES.

[illegible]

Defendants' Exhibit 24

Westbound			Miscellaneous.		Eastbound			Dept. Cons.	
II	III	Trips		Trips	I	II	III		
....	42	14	Austro-Am. (N. Y.-Azores)	9	7	8	36	...	...
177	541	12	Co. Trasatlantica (N. Y.-Spain) ..	12	178	90	888	18	53
53	286	15	Fabre (N. Y.-Azores)	14	59	42	318	...	...
531	5096	17	" (Prov.-Azores)	14	29	61	862	...	...
689	3917	14	White Star (Bost.-Azores)	15	68	159	2048	...	...
39	113	1	" " (N. Y.-Azores)	5	4	....	103	...	...
1489	9995	73	Totals	69	345	360	4255	18	53

Defendants' Exhibit 24.

Dividends of Hamburg-American Line Declared on
all services.

Year	%	Year	%	Year	%	Year	%
1847	0	1864	8	1881	12	1898	8
1848	0	1865	20	1882	9	1899	8
1849	0	1866	20	1883	4	1900	10
1850	0	1867	16	1884	0	1901	6
1851	0	1868	8	1885	0	1902	4½
1852	0	1869	15	1886	4	1903	6
1853	28	1870	7	1887	6	1904	9
1854	0	1871	12	1888	8½	1905	11
1855	10	1872	16	1889	11	1906	10
1856	8	1873	12	1890	8	1907	6
1857	0	1874	0	1891	5	1908	0
1858	0	1875	0	1892	0	1909	6
1859	0	1876	0	1893	0	1910	8
1860	6	1877	0	1894	0	1911	9
1861	8	1878	7	1895	5	1912	10
1862	10	1879	6½	1896	8		
1863	8	1880	10	1897	6	Average--	6.9=8%
=		=		=			

DEFENDANTS' DEMURRERS.

15307

**The demurrer of the defendant,
The Allan Line Steamship Company,
Limited, to the petition of The United
States of America, filed herein on
January 4th, 1911.**

This defendant, The Allan Line Steamship Company, Limited, by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15308

Wherefore, and for divers other good causes of demurrer appearing on the face of the said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether it shall be compelled to make any further or other answer to the said petition, and humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

15309

SPoonER & COTTON,
Solicitors for the Defendant,
The Allan Line Steamship
Company, Limited,
32 Liberty Street,
New York City, N. Y.

JOHN C. SPOONER,
Of Counsel.

15310

Defendants' Demurrers.

The demurrer of the defendant, International Mercantile Marine Company, to the petition of The United States of America, filed on January 4th, 1911.

15311

The above-named defendant, International Mercantile Marine Company, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15312

Wherefore, and for divers other good causes of demurrer appearing on the face of said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether it shall be compelled to make any further or other answer to the said petition and humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

BURLINGHAM, MONTGOMERY & BEECHER,
Solicitors for the Defendant, International Mercantile Marine Company,
No. 27 William Street,
City of New York, N. Y.

WM. S. MONTGOMERY,
Of Counsel.

The demurrer of the defendant, International Navigation Company, Limited, to the petition of The United States of America, filed herein on January 4th, 1911.

The above named defendant, International Navigation Company, Limited, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15314

Wherefore, and for divers other good causes of demurrer appearing on the face of said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether it shall be compelled to make any further or other answer to the said petition and humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

15315

BURLINGHAM, MONTGOMERY & BEECHER,
Solicitors for the Defendant, International Navigation Company, Limited,
No. 27 William Street,
City of New York, N. Y.

WM. S. MONTGOMERY,
Of Counsel.

15316

Defendants' Demurrers.

The demurrer of the defendant, Anchor Line (Henderson Brothers), Ltd., to the petition of The United States of America, filed herein on January 4th, 1911.

15317

The above-named defendant, Anchor Line (Henderson Brothers), Ltd., not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15318

Wherefore, and for divers other good causes of demurrer appearing on the face of said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether it shall be compelled to make any further or other answer to the said petition and humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

BURLINGHAM, MONTGOMERY & BEECHER,
Solicitors for the Defendant,
Anchor Line (Henderson
Brothers), Ltd.,
No. 27 William Street,
City of New York, N. Y.

CHARLES C. BURLINGHAM,
Of Counsel.

**The demurrer of the defendant,
Canadian Pacific Railway Company,
to the petition of The United States
of America, filed herein on January
4th, 1911.**

This defendant, Canadian Pacific Railway Company, by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15320

Wherefore, and for divers other good causes of demurrer appearing on the face of the said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether it shall be compelled to make any further or other answer to the said petition, and humbly prays to be hence dismissed, with its reasonable costs and charges in this behalf most wrongfully sustained.

15321

(Sd.) SPOONER & COTTON,
Solicitors for the Defendant,
Canadian Pacific Railway
Company,
32 Liberty Street,
New York City, N. Y.

(Sd.) JOHN C. SPOONER,
Of Counsel.

15322

Defendants' Demurrers.

The demurrer of the defendant, The Cunard Steamship Company, Limited, to the petition of The United States of America, filed herein on January 4th, 1911.

15323

This defendant, The Cunard Steamship Company, Limited, by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15324

Wherefore, and for divers other good causes of demurrer appearing on the face of the said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether it shall be compelled to make any further or other answer to the said petition and humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

LORD, DAY & LORD,
Solicitors for the Defendant,
The Cunard Steamship Company, Limited,

49 Wall Street,
New York City, N. Y.

LUCIUS H. BEERS,
Of Counsel.

The demurrer of the defendant, British & North Atlantic Navigation Company, Limited, to the petition of The United States of America, filed herein on January 4th, 1911.

The above-named defendant, British & North Atlantic Navigation Company, Limited, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition, and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15326

Wherefore, and for divers other good causes of demurrer appearing on the face of said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether it shall be compelled to make any further or other answer to the said petition and humbly prays to be hence dismissed, with its reasonable costs and charges in this behalf most wrongfully sustained.

15327

BURLINGHAM, MONTGOMERY & BEECHER,

Solicitors for the Defendant,
British & North Atlantic
Steam Navigation Company,
Limited,

No. 27 William Street,
City of New York, N. Y.

WM. S. MONTGOMERY,
Of Counsel.

15328

Defendants' Demurrers.

The demurrer of the defendant, Hamburg - Amerikanische Packet - Fahrt - Actien - Gesellschaft (Hamburg-American Line), to the petition of The United States of America, filed herein on January 4th, 1911.

15329

This defendant, Hamburg-Amerikanische Packet-Fahrt - Actien - Gesellschaft (Hamburg - American Line), by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15330

Wherefore, and for divers other good causes of demurrer appearing on the face of the said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether it shall be compelled to make any further or other answer to the said petition and humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

SPoonER & COTTON,
Solicitors for the Defendant, Ham-
burg - Amerikanische Packet-
Fahrt-Actien-Gesellschaft (Ham-
burg-American Line),

32 Liberty Street,
New York City, N. Y.

JOHN C. SPOONER,
Of Counsel.

The demurrer of the defendant, Nederlandsch - Amerikaansche Stoomvaart Maatschappij (Holland-Amerika Lijn), to the petition of The United States of America, filed herein on January 4th, 1911.

The above-named defendant, Nederlandsch-Amerikaansche Stoomvaart Maatschappij (Holland-Amerika Lijn), not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition, and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant. 15332

Wherefore, and for divers other good causes of demurrer appearing on the face of said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether it shall be compelled to make any further or other answer to the said petition, and humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained. 15333

BURLINGHAM, MONTGOMERY & BEECHER,
Solicitors for the Defendant, Nederlandsch-
Amerikaansche Stoomvaart Maatschap-
pij (Holland-Amerika Lijn),
No. 27 William Street,
City of New York, N. Y.

CHARLES C. BURLINGHAM,
Of Counsel.

15334

Defendants' Demurrers.

The joint and several demurrer of the above-named defendants, North German Lloyd, Gustav H. Schwab, Herman C. Von Post and Gustav Schwab, Junior (sued as Gustav H. Schwab, Junior), to the petition of The United States of America, filed herein on January 4th, 1911.

15335

These defendants respectively, by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demur to the said petition and for cause of demurrer show that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for or to any relief whatever, from or against these defendants or either of them.

15336

Wherefore, and for divers other good causes of demurrer appearing on the face of said petition, these defendants respectively demur thereto and humbly pray the judgment of this Honorable Court whether they or either of them shall be compelled to make any further or other answer to the said petition and humbly pray to be herein dismissed, with their reasonable costs and charges in this behalf most wrongfully sustained.

CHOATE & LAROCQUE,
Solicitors for the Defendants,
North German Lloyd, Gustav
H. Schwab, Herman C. Von
Post and Gustav Schwab, Jr.,
No. 40 Wall Street,
Borough of Manhattan,
City of New York, N. Y.

**The demurrer of the defendant,
Societe Anonyme de Navigation
Belge Americaine, to the petition of
The United States of America, filed
herein on January 4th, 1911.**

The above-named defendant, Societe Anonyme de Navigation Belge Americaine, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15338

Wherefore, and for divers other good causes of demurrer appearing on the face of said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether it shall be compelled to make any further or other answer to the said petition and humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

15339

BURLINGHAM, MONTGOMERY & BEECHER,
Solicitors for the Defendant,
Societe Anonyme de Navigation Belge Americaine,
No. 27 William Street,
City of New York, N. Y.

WM. S. MONTGOMERY,
Of Counsel.

15340

Defendants' Demurrers.

The demurrer of the defendant, Russian East Asiatic Steamship Company, Limited (Russian-American Line), to the petition of The United States of America, filed herein on January 4th, 1911.

15341

This defendant, Russian East Asiatic Steamship Company, Limited (Russian-American Line), by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, the United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15342

Wherefore, and for divers other good causes of demurrer appearing on the face of the said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether it shall be compelled to make any further or other answer to the said petition and humbly prays to be hence dismissed, with its reasonable costs and charges in this behalf most wrongfully sustained.

A. L. & S. F. JACOBS,
Solicitors for the Defendant,
Russian East Asiatic Steam-
ship Company, Limited (Rus-
sian-American Line),

30 Broad Street,
New York City, N. Y.

SAMUEL F. JACOBS,
Of Counsel.

The demurrer of the defendant, Oceanic Steam Navigation Company, Limited, to the petition of The United States of America, filed herein on January 4th, 1911.

The above-named defendant, Oceanic Steam Navigation Company, Limited, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15344

Wherefore, and for divers other good causes of demurrer appearing on the face of said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether it shall be compelled to make any further or other answer to the said petition and humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

15345

BURLINGHAM, MONTGOMERY & BEECHER,
Solicitors for the Defendant,
Oceanic Steam Navigation
Company, Limited,
No. 27 William Street,
City of New York, N. Y.

WM. S. MONTGOMERY,
Of Counsel.

15346

Defendants' Demurrers.

The demurrer of the defendant, Bryce J. Allan, to the petition of The United States of America, filed herein on January 4th, 1911.

15347

This defendant, Bryce J. Allan, by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15348

Wherefore, and for divers other good causes of demurrer appearing on the face of the said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether he shall be compelled to make any further or other answer to the said petition and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

SPoonER & COTTON,
Solicitors for the Defendant,
Bryce J. Allan,
32 Liberty Street,
New York City, N. Y.

JOHN C. SPOONER,
Of Counsel.

The demurrer of the above-named defendant, Philip A. S. Franklin, to the petition of The United States of America, filed herein on January 4th, 1911.

The above-named defendant, Philip A. S. Franklin, by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for or to any relief whatever from or against this defendant.

15350

Wherefore, and for divers other good causes of demurrer appearing on the face of said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether he shall be compelled to make any further or other answer to the said petition, and humbly prays to be herein dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

15351

BURLINGHAM, MONTGOMERY & BEECHER,
Solicitors for the Defendant,
Philip A. S. Franklin,
27 William Street,
City of New York, N. Y.

CHARLES C. BURLINGHAM,
W. S. MONTGOMERY,
Of Counsel.

15352

Defendants' Demurrers.

The demurrer of the above-named defendant, William Coverly, to the petition of The United States of America, filed herein on January 4th, 1911.

15353

The above-named defendant, William Coverly, by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for or to any relief whatever from or against this defendant.

15354

Wherefore, and for divers other good causes of demurrer appearing on the face of said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether he shall be compelled to make any further or other answer to the said petition and humbly prays to be herein dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

BURLINGHAM, MONTGOMERY & BEECHER,
Solicitors for the Defendant,
William Coverly,
27 William Street,
City of New York, N. Y.

CHARLES C. BURLINGHAM,
Of Counsel.

**The demurrer of the defendant,
Charles P. Sumner, to the petition of
The United States of America, filed
herein on January 4th, 1911.**

This defendant, Charles P. Sumner, by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15356

Wherefore, and for divers other good causes of demurrer appearing on the face of the said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether he shall be compelled to make any further or other answer to the said petition and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

15357

LORD, DAY & LORD,
Solicitors for the Defendant,
Charles P. Sumner,
49 Wall Street,
New York City, N. Y.

LUCIUS H. BEERS,
Of Counsel.

15358

Defendants' Demurrers.

The demurrer of the defendant, Emil L. Boas, to the petition of The United States of America, filed herein on January 4th, 1911.

15359

This defendant, Emil L. Boas, by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against this defendant.

15360

Wherefore, and for divers other good causes of demurrer appearing on the face of the said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether he shall be compelled to make any further or other answer to the said petition and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

SPOONER & COTTON,
Solicitors for the Defendant,
Emil L. Boas,
32 Liberty Street,
New York City, N. Y.

JOHN C. SPOONER,
Of Counsel.

The demurrer of the above-named defendant, Adrian Gips, to the petition of The United States of America, filed herein on January 4th, 1911.

The above-named defendant, Adrian Gips, by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs to the said petition and for the cause of demurrer shows that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for or to any relief whatever from or against this defendant.

15362

Wherefore, and for divers other good causes of demurrer appearing on the face of said petition, this defendant demurs thereto and humbly prays the judgment of this Honorable Court whether he shall be compelled to make any further or other answer to said petition and humbly prays to be herein dismissed with his reasonable costs and charges in his behalf most wrongfully sustained.

15363

BURLINGHAM, MONTGOMERY & BEECHER,
Solicitors for the Defendant,
Adrian Gips,
27 William Street,
City of New York, N. Y.

CHARLES C. BURLINGHAM,
Of Counsel.

15364

Defendants' Demurrers.

The demurrer of the defendants, Alexander E. Johnson and Max Straus, co-partners, doing business under the firm name of A. E. Johnson & Company, to the petition of The United States of America, filed herein on January 4th, 1911.

15365

These defendants, Alexander E. Johnson and Max Straus, co-partners doing business under the firm name of A. E. Johnson & Company, by protestation, not confessing or acknowledging all or any of the matters or things in the said petition contained to be true in such manner and form as the same are therein set forth and alleged, demur to the said petition and for cause of demurrer show that the petitioner, The United States of America, has not in and by said petition shown any special right or equity on behalf of said petitioner, or made or stated such a cause as doth or ought to entitle it to the particular discovery or relief as is therein and thereby sought and prayed for, or to any relief whatever, from or against these defendants.

15366

Wherefore, and for divers other good causes of demurrer appearing on the face of the said petition, these defendants demur thereto and humbly pray the judgment of this Honorable Court whether they shall be compelled to make any further or other answer to the said petition and humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

A. L. & S. F. JACOBS,
Solicitors for the Defendants,
Alexander E. Johnson and
Max Straus,

30 Broad Street,
New York City, N. Y

SAMUEL F. JACOBS,
Of Counsel.

Opinion of Court on Demurrers. 15367

CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

Before—LACOMBE, COXE, WARD and NOYES,
Circuit Judges.

UNITED STATES OF AMERICA,
Petitioner,

vs.

H A M B U R G - A M E R I K A N I S C H E
P A C K E T - F A H R T - A C T I E N - G E S E L L -
S C H A F T and Others,
Defendants.

15368

On demurrers for want of equity to a petition filed by the United States under the Federal Anti-Trust Statute for the purpose of restraining the further execution of an agreement between the certain steamship companies for the formation of an association called the Atlantic Conference relating to the carriage of steerage passengers between the United States and Europe.

15369

NOYES, *Circuit Judge*:

It may be accepted without discussion that the transportation of passengers between this country and Europe forms a part of the commerce of the United States with foreign nations. It is also clearly established that Congress has power to prohibit all contracts, combinations and conspiracies in restraint of such part of the foreign commerce of the United States. The real question here is not one of power, but of interpretation.

15370

Opinion of Court on Demurrers.

The inquiry is whether that which is charged against the defendants comes within the provisions of the Anti-Trust Statute and this inquiry has two phases:

(1) Does the agreement in question directly and materially affect foreign commerce?

(2) Does such agreement with the acts stated in the petition amount to an unlawful contract combination or conspiracy?

15371

The agreement affects foreign commerce because its operation must necessarily divert a part thereof, viz.: the business of carrying steerage passengers from the natural channels of free competition into fixed channels assigned to the parties. The different lines obtain not that which would come to them from their separate efforts, but prescribed and certain percentages of the traffic.

15372

The agreement directly and materially affects foreign commerce and is partly intra-territorial because it is to be carried out in part in the United States. Confining ourselves to east bound traffic, it is evident that the contract contemplates the solicitation of business; the making of contracts of carriage; the taking on board of passengers, and the actual commencement of transportation within the territory of the United States. It requires acts to be done in this country; such acts are as material and essential as those to be performed abroad, and the part of the contract requiring them cannot be separated from the remainder.

The prohibitions of the Anti-Trust Statute apply broadly to contracts in restraint of trade or commerce with foreign nations. This contract directly and materially affects such commerce, and if it unlawfully restrains it, it comes within the

statute. We see nothing to warrant the contention that the act should be narrowly interpreted as prohibiting only contracts which are to be performed wholly within the territorial jurisdiction of the United States nor—if it were for us to consider—any reason for concluding that a broader construction would lead to international complications.

As the contract directly and materially affects the foreign commerce of this country by being put into effect here, it is immaterial where it was entered into or by what vessels it was to be, or has been, performed. Citizens of foreign countries are not free to restrain or monopolize the foreign commerce of this country by entering into combinations abroad nor by employing foreign vessels to effect their purpose. Such combinations are to be tested by the same standard as similar combinations entered into here by citizens of this country. The vital question in all cases is the same. Is the combination to so operate in this country as to directly and materially affect our foreign commerce? As said by the Circuit Court of Appeals for this Circuit in *Thomsen vs. Union Castle Mail S. S. Co.*, 166 Fed., 251:

15374

“That the combination was formed in a foreign country is likewise immaterial. It affected the foreign commerce of this country and was to be put into operation here.”

15375

The final inquiry is whether the acts and agreements of the defendants as set forth in the petition in addition to materially and directly affecting foreign commerce restrain it within the meaning of the statute. This inquiry requires the examination of the second phase of the question with which we started and it is whether such acts and agreements amount to an unlawful contract, combination or conspiracy.

15376

Opinion of Court on Demurrers.

The petition states the contract at length. It shows a division of traffic into stated percentages, contains stipulations for the pooling of receipts, and embraces provisions to secure its enforcement. In general the fixing of rates is left to individual discretion, although the holders of 75% of the shares of traffic may direct any party to raise or reduce its charges.

15377

The petition, after stating the contract, shows the methods adopted by the associated defendants in fighting competitors and in forcing them out of business, and charges unfairness and oppression. It further alleges that the defendants in carrying out the combination have charged excessive and arbitrary rates to the public. It also alleges that by the contract and the practices thereunder the defendants have obtained a virtual monopoly of that part of the foreign commerce of the United States included within the scope of the combination.

15378

Testing the petition by the allegations which it contains, as must be done upon demurrer, it is clear that—the effect upon foreign commerce being shown—the averments make out a combination and conspiracy in violation of the Anti-Trust Statute. Whether or not the statute is directed against all combinations in restraint of competition, it is certain that it embraces those in which the purpose and effect are to charge arbitrary and excessive transportation rates. Whether the statute be broadly or narrowly construed, it is clear that it prohibits combinations and conspiracies to restrain the business of transporting passengers when accompanied with acts of oppression and attempts to monopolize.

The demurrers of the defendants are overruled with costs and they are assigned to answer by the February rule day.

Opinion of Court on Facts.

15379

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

Before—LACOMBE, COXE, WARD and ROGERS,
Circuit Judges.

THE UNITED STATES

v.

HAMBURG-AMERICAN STEAMSHIP
 LINE and Others.

15380

This is a proceeding in equity under the Anti-Trust Act to terminate and dissolve a combination of various trans-Atlantic steamships engaged in the transportation of passengers. The transactions complained of are concerned mainly with the transport of steerage passengers.

LACOMBE, *C. J.*:

The writer's opinion as to what, under prior decisions, was the construction to be given to the Sherman Anti-Trust Act will be found fully set forth in *U. S. v. American Tobacco Company*, 164 F. R., 700. If that construction were followed in this case there could be no doubt as to the conclusion to be reached upon the facts proved. It is practically not disputed that, by the various agreements and conferences which together constitute the combination complained of, that branch of trans-Atlantic commerce which is concerned with the transport of steerage passengers is arbi-

15381

15382

Opinion of Court on Facts.

trarily interfered with so that the proportions of it carried by the various lines, which have so combined, are not as they would be if full, free and unrestricted competition were the sole controlling power to effect the distribution.

15383 Since the decision above cited, however, there have been two exhaustive opinions of the Supreme Court dealing with this Act; *Standard Oil Company v. United States*, 221 U. S., 1; and *United States v. American Tobacco Company*, 221 U. S., 106. The effect of these would seem to be that contracts and methods of business, which do in fact restrain or interfere with competition, are not to be held obnoxious to the provisions of the Act, unless such restraint or interference is "unreasonable" or "undue."

15384

"Without going into detail and but very briefly surveying the whole field, it may be with accuracy said that the dread of enhancement of prices and of other wrongs which it was thought would flow from the undue limitation on competitive conditions caused by contracts or other acts of individuals or corporations, led, as a matter of public policy to the prohibition or treating as illegal all contracts or acts which were unreasonably restrictive of competitive conditions, either from the nature or character of the contract or act or where the surrounding circumstances were such as to justify the conclusion that they had not been entered into or performed with the legitimate purpose of reasonably forwarding personal interest and developing trade, but on the contrary were of such character as to give rise to the inference or presumption that they had been entered into or done with the intent to do wrong to the general public and to limit the right of individuals, thus restraining the free flow of commerce and tending to bring about the evils, such as enhancement of prices, which

were considered to be against public policy.
 * * * The Statute * * * evidenced
 the intent not to restrain the right to make
 and enforce contracts, whether resulting from
 combination or otherwise, which did not un-
 duly restrain interstate or foreign commerce,
 but to protect that commerce from being re-
 strained by methods, whether old or new,
 which would constitute an interference that
 is an undue restraint."

Standard Oil Company v. United States,
 221 U. S., pp. 58, 59, 60,

15386

"Applying the rule of reason to the con-
 struction of the Statute, it was held in the
 Standard Oil case that as the words 'restraint
 of trade' at common law and in the law of
 this country at the time of the adoption of
 the Anti-Trust Act only embraced acts or
 contracts or agreements or combinations
 which operated to the prejudice of the public
 interests by unduly restricting competition
 or unduly obstructing the due course of trade,
 or which, either because of the inherent na-
 ture or effect of the evident purpose of the
 acts, etc., injuriously restrained trade, that
 the words as used in the Statute were de-
 signed to have and did have but a like sig-
 nificance. It was therefore pointed out that
 the Statute did not forbid or restrain the
 power to make normal and usual contracts
 to further trade by resorting to all normal
 methods, whether by agreement or otherwise
 to accomplish such purpose."

15387

*United States v. American Tobacco Com-
 pany*, 221 U. S., 179.

To determine whether any particular course of
 conduct is or is not "undue" or "unreasonable"

15388

Opinion of Court on Facts.

15389

involves, of course, a consideration of all the surrounding circumstances, which may be multifarious. Moreover, opinions will sometimes differ as to what should be the answer to such a question. Upon a given statement of facts twelve unprejudiced jurymen will sometimes unanimously reach the conclusion that the conduct of an individual evidenced "due" and "reasonable" care and prudence, when upon the same state of facts twelve other unprejudiced jurymen will unanimously reach a different conclusion. Courts have recognized this uncertainty, for it has been frequently held in actions for negligence that although a judge may direct an appropriate verdict, when all intelligent minds would agree as to the inference to be drawn from proved facts, he should send the cause to the jury whenever there might be an honest difference of opinion as to whether the conduct of an individual exhibited "due" and "reasonable" care and prudence. So, too, when question arises in an equity court as to the "reasonableness" of certain transactions different chancellors may differ in their answers. Thus in *United States v. Periodical Clearing House*, a litigation arising under the Sherman Act and involving certain regulations made by what was known as the "Magazine" or "Periodical Trust," this court was evenly divided in opinion as to whether such regulations were reasonable or not. (Decided March 22nd, 1913, by dismissal of complaint, for the reason that the government had failed to satisfy a majority of the court that it was entitled to the relief prayed for. Not reported, as no opinions were filed.)

15390

Referring now to the facts in proof. One of the matters complained of is what is called in the tes-

Opinion of Court on Facts.

15391

timony the providing of "fighting ships." Upon occasions when some steamship owner or charterer, not a member of the combination, has put a vessel on a berth adjoining one from which vessels of a member of the combination were about to sail and has offered to carry passengers at a lower rate than that asked by such member, an extra vessel has been put on ostensibly by one of the lines in the combination, but really by the combination itself at the same or a lower rate and all have co-operated to furnish such a "fighting ship" and thereby keep out the competitor. This seems clearly to be within the prohibition of the Act; the case is analagous to that presented in *United States v. Eastern States Retail Lumber Dealers' Association*. In that case some wholesale lumber dealers, learning the names and addresses of the customers of retail dealers who bought from them, had taken away such customers by offering to sell them direct at wholesale prices. An individual retail dealer who had thus lost customers was of course free to give information of his experience to any of his business associates, but an association of retail dealers which gathered such information and circularized the retail trade with a list of the names of the wholesalers who had done so was held to be a combination to boycott or blacklist and a decree was entered in this court enjoining the further preparation and issuance of such circulars—which decree was affirmed on appeal (201 F. R., 581; U. S. Sup. Court, June 22nd, 1914, not yet reported).

15392

15393

The testimony (which is voluminous) fails to satisfy us that the defendants, or any of them, have charged excessive or exorbitant rates for the transportation of passengers, of any class, espe-

15394

Opinion of Court on Facts.

cially when it is considered that vastly more in the way of safety, speed, sanitary conditions, physical comfort, etc., is now given to the passenger than was given to him before these agreements and conferences were entered into.

15395

Much is made in argument of the circumstance that members of the combination employ only agents who will agree to confine their business to selling passage tickets for such members. When the deplorable conditions which existed before this method of business was adopted are considered it would seem that such an arrangement has greatly benefited the traveling public, especially the more ignorant class of many different nationalities which travels in the third class or steerage. Moreover, dealing as it does merely with the control of defendants' agents, who are free to accept or decline such agency, it is analagous to the case which was presented in *United States v. Periodical Clearing House, supra*, where, upon the question whether or not such control of agents was or was not within the Act, this court was divided in opinion and dismissed the bill. No attempt was made to review that decision on appeal. It is thought therefore that complainant has not shown itself entitled to relief on this branch of the case.

15396

The main subject matter of the controversy, viz.: the controlling of transportation so as to allot proportionate shares of it to the different defendants who are in the combination, has recently been most exhaustively considered by the Standing Committee on Merchant Marine and Fisheries under resolutions of the House of Representatives in Congress; it is manifest from its report that the Committee had before it substantially the same evidence which is contained in the

Opinion of Court on Facts.

15397

record in this case. There is nothing to add to the elaborate presentation of all sides of the controversy which will be found in that report, and we find it most persuasive to the conclusion that, in view of the peculiarities of ocean transportation, the method adopted by the defendants—if purged of its obnoxious feature, the “fighting ship”—is a reasonable one, which so far from restraining trade really fosters and protects it by giving it a stability which ensures more satisfactory public service for all concerned. Without this method or something like it there would be, in the language of the Committee, one or other of two results: “the lines would either engage in rate wars which would mean the elimination of the weak and the survival of the strong, or to avoid a costly struggle they would consolidate through common ownership—either would mean a monopoly fully as effective and it is believed more so, than can exist by virtue of (this) agreement.” It seems, therefore, that this particular combination comes fairly within the exception to a strictly literal construction of the statute, which is indicated in the Standard Oil and Tobacco cases.

15398

The Allan Line and Canadian Pacific Line withdrew from the fighting ship agreement before the bill was filed. As to both these defendants the bill is dismissed. As to the other defendants injunction will issue against the continuance of the “fighting ships” and as to the other prayers for relief the bill is dismissed. Since the government has not prevailed on the main part of the case, the decree will be without costs.

15399

15400

Notice of Entry.

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK.

15401

THE UNITED STATES OF AMERICA,
Petitioner,

v.

HAMBURG-AMERIKANISCHE PACK-
ETFAHRT-ACTIEN-GESELLSCHAFT,
et al.,

Defendants.

In Equity,
E-7-74.

Sirs:

You will please take notice that a decree, of which the within is a copy, was on the 9th day of November, 1914, duly entered in the within entitled action in the office of the Clerk of the District Court for the Southern District of New York.

Dated, New York, Nov. 10, 1914.

15402

Yours, etc.,

H. SNOWDEN MARSHALL,
United States Attorney,
Solicitor for Petitioner.

Notice of Entry.

15403

To

MESSRS. SPOONER & COTTON,

14 Wall Street,

New York, N. Y.

MESSRS. BURLINGHAM, MONTGOMERY & BEECHER,

27 William Street,

New York, N. Y.

MESSRS. CHOATE, LAROCQUE & MITCHELL,

40 Wall Street,

New York, N. Y.

MESSRS. LORD, DAY & LORD,

49 Wall Street,

New York, N. Y.

15404

RALPH J. M. BULLOWA, ESQ.,

10 Broadway,

New York, N. Y.

Solicitors for Defendants.

15405

15406

Final Decree.

At a Stated Term of the United States District Court held in and for the Southern District of New York, at the United States Court House and Post Office Building, Borough of Manhattan, City of New York, on the 9th day of November, 1914.

Present—HON. E. HENRY LACOMBE,
HON. ALFRED C. COXE,
HON. HENRY G. WARD,
HON. HENRY WADE ROGERS,
Circuit Judges.

15407

UNITED STATES OF AMERICA, Petitioner, v. HAMBURG-AMERIKANISCHE PACK- ETFAHRT-ACTIEN-GESELLSCHAFT, <i>et al.,</i> Defendants.	} In Equity, E-7-74.
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15408

The United States of America having filed its petition herein on the 4th day of January, 1911, and the defendants, The Allan Line Steamship Company, Limited, International Mercantile Marine Company (American Line), International Navigation Company, Limited (American Line), The Anchor Line (Henderson Brothers), Limited, Canadian Pacific Railway Company, The Cunard Steamship Company, Limited, British and North Atlantic Steam Navigation Company Limited

Final Decree.

15409

(Dominion Line), Hamburg-Amerikanische Packetfahrt-Actien-Gesellschaft (Hamburg-American Line), Nederlandsh-Amerikaansche Stoomvaart Matschappij (Holland-Amerika Lijn), Norddeutscher Lloyd (North German Lloyd Line), Societe Anonyme de Navigation Belge Americaine (Red Star Line), Russian East Asiatic Steamship Company, Limited (Russian-American Line), Oceanic Steam Navigation Company, Limited (White Star Line), Bryce J. Allan, Phillip A. S. Franklin, John Lee, William Coverley, Charles P. Sumner, Emil L. Boas (now deceased), Adrian Gips, Gustav H. Schwab (now deceased), Herman C. Von Post, Gustav H. Schwab, Jr., Alexander E. Johnson and Max Straus, having duly appeared and answered herein, and the petitioner having duly filed a replication to said answers,

15410

Now, therefore, comes the United States of America by H. Snowden Marshal, Esq., United States Attorney for the Southern District of New York, and Henry A. Guiler, Esq., Special Assistant to the United States Attorney for the Southern District of New York, and come also the defendants by their solicitors, Spooner and Cotton, Burlingham, Montgomery and Beecher, Choate, Larocque and Mitchell, Lord, Day and Lord, and Ralph J. Bullowa, Esq., and the said cause having duly come on to be heard before the Hon. E. Henry Lacombe, Alfred C. Coxe, Henry G. Ward and Henry Wade Rogers on the pleadings and proof, and the petitioner having moved the Court for an injunction in accordance with the prayer of the petition;

15411

Wherefore, it is hereby ordered, adjudged and decreed:

15412

Final Decree.

1. That as to the defendants Allan Line, Bryce J. Allan and the Canadian Pacific Railway Company the petition is dismissed.

15413

2. That the other defendants and each of them and their agents, servants, employees and all persons acting under or in behalf of them are hereby enjoined, restrained and prohibited from combining, conspiring or agreeing to interfere with or restrain the business of any owner of a vessel operated in competition with the vessel or vessels of one or other of said defendants, by providing, operating, or maintaining an extra vessel for the purpose of having it compete with such competing vessel by offering to carry passengers; and from in any way contributing to the cost or expense of procuring and operating such extra vessel. This injunction, however, shall not in any way affect the right of each individual defendant to run such vessels and on such terms as such individual defendant may choose in opposition to any competitor provided that the cost and expense thereof is not contributed in whole or in part by any of the other defendants.

15414

3. As to all other prayers for relief the petition is dismissed without costs to either side.

November 9, 1914.

E. HENRY LACOMBE,
U. S. Circuit Judge.
ALFRED C. COXE,
U. S. Cir. Judge.
H. G. WARD,
HENRY WADE ROGERS.

Order Allowing Appeal.

15415

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,
Petitioner,

v.

HAMBURG-AMERIKANISCHE PACK-
ETFAHRT-ACTIEN-GESELLSCHAFT,
et al.,

Defendants.

In Equity,
E-7-74.

15416

This cause came on to be heard at this Term,
was argued by counsel, and thereupon, upon con-
sideration thereof, it is hereby

Ordered, adjudged and decreed that an appeal
be, and hereby is, granted and allowed, as prayed;
and that the Clerk of the above-named Court be,
and hereby is, directed to transmit forthwith to
the Supreme Court of the United States a duly au-
thenticated transcript of the record, papers and
proceedings. It is hereby further ordered, ad-
judged and decreed that the testimony be repro-
duced in the transcript of the record in the exact
words of the witnesses.

15417

E. HENRY LACOMBE,
ALFRED C. COXE,
HENRY G. WARD,
HENRY WADE ROGERS,
Circuit Judges.

15418

Petition for Appeal.

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,
Petitioner,

v.

HAMBURG-AMERIKANISCHE PACK-
ETFAHRT-ACTIEN-GESELLSCHAFT,
et al.,

Defendants.

In Equity,
E-7-74.

15419

*To the Honorable Judges of the United States
District Court for the Southern District of
New York:*

15420

Now comes the United States of America, petitioner, in the above-entitled case, by its solicitors, H. Snowden Marshall, Esq., United States Attorney for the Southern District of New York, and Special Assistant to the United States Attorney Henry A. Guiler, and conceiving itself aggrieved by the order and final decree made and entered by the above-named Court in the above-entitled cause on the 9th day of November 1914, in the manner and instances set forth in its assignments of error filed in the said cause, to which reference is hereby made, does hereby pray an appeal and does hereby appeal therefrom to the present term of the Supreme Court of the United States.

And the United States further prays that a transcript of the record, proceedings and papers

Petition for Appeal.

15421

on which the decree was made and entered, duly authenticated, may be transmitted forthwith to the Supreme Court of the United States; and it further prays that, pursuant to No. 75 of the Rules and Practice of Equity, promulgated by the Supreme Court of the United States, effective February 1, 1913, the testimony may be reproduced in the transcript of the record in the exact words of the witnesses.

H. SNOWDEN MARSHALL,

U. S. Attorney,

Solicitor for the Petitioner,

15422

Office and Post Office Address,

Room 202, U. S. Court House

and Post Office Building,

Borough of Manhattan,

City of New York.

H. SNOWDEN MARSHALL,

HENRY A. GUILER,

Of Counsel.

15423

15424

Notice of Appeal.

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA, Petitioner, v. HAMBURG-AMERIKANISCHE PACK- ETFAHRT-ACTIEN-GESELLSCHAFT, <i>et al.</i> , Defendants.	} In Equity, E-7-74.
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15425

Sirs:

Please take notice that we will present to the Judges of the Circuit Court of Appeals, sitting as the Expedition District Court, at the Chambers of Judge Lacombe, United States Court House and Post Office Building, Borough of Manhattan, New York City, on the 14th day of November, 1914, at ten o'clock A. M., the foregoing petition for appeal for the allowance thereof.

15426

Dated, New York, November 12, 1914.

Yours, etc.,

H. SNOWDEN MARSHALL,

U. S. Attorney,

Solicitor for the Petitioner,

Office and Post Office Address,

Room 202, U. S. Court House,

and Post Office Building,

Borough of Manhattan,

New York, N. Y.

Notice of Appeal.

15427

To

MESSRS. SPOONER AND COTTON,
14 Wall Street,
New York, N. Y.

MESSRS BURLINGHAM, MONTGOMERY & BEECHER,
29 William Street,
New York, N. Y.

MESSRS CHOATE, LAROCQUE & MITCHELL,
40 Wall Street,
New York, N. Y.

MESSRS. LORD, DAY & LORD,
49 Wall Street,
New York, N. Y.

15428

RALPH J. M. BULLOWA, Esq.
10 Broadway,
New York, N. Y.

15429

15430 **Petitioner's Assignments of Error.**

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

15431

UNITED STATES OF AMERICA, Petitioner, v. HAMBURG-AMERIKANISCHE PACK- ETFAHRT-ACTIEN-GESELLSCHAFT, <i>et al.</i> , Defendants.	}	In Equity, E-7-74.
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Now comes the United States of America, by H. Snowden Marshall, United States Attorney, and by Henry A. Guiler, Special Assistant to the United States Attorney, solicitors for the petitioner, and files the following assignments of error upon which the United States of America will rely upon its appeal from the decree made by this Honorable Court on the 9th day of November, 1914, in the above-entitled cause:

15432

I.

That said Court erred in failing to hold and decree that the defendants, The Allan Line Steamship Company, Limited, International Mercantile Marine Company (American Line), International Navigation Company, Limited (American Line), The Anchor Line (Henderson Brothers), Limited, Canadian Pacific Railway Company, The Cunard Steamship Company, Limited, British and North Atlantic Steam Navigation Company, Limited

(Dominion Line), Hamburg-Amerikanische Packetfahrt-Actien-Gesellschaft (Hamburg-American Line), Nederlandsh-Amerikaansche Stoomvaart Maatschappij (Holland-Amerika Lijn), Norddeutscher Lloyd (North German Lloyd Line), Societe Anonyme de Navigation Belge Americaine (Red Star Line), Russian East Asiatic Steamship Company, Limited (Russian-American Line), Oceanic Steam Navigation Company, Limited (White Star Line), Bryce J. Allan, Phillip A. S. Franklin, John Lee, William Coverley, Charles P. Sumner, Adrian Gips, Herman C. Von Post, Gustav H. Schwab, Jr., Alexander E. Johnson and Max Straus, have been, and now are, engaged in a combination and conspiracy to restrain the trade and commerce of the United States with foreign nations in the transportation of steerage passengers contrary to the Act of Congress dated July 2, 1890 (26 Stat., 209), entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies."

15434

II.

That said Court erred in failing to hold, declare and decree that said combination and conspiracy in which the defendants have been, and are now engaged, is contrary to the aforesaid Act of Congress.

15435

III.

That said Court erred in failing to hold and decree that said defendants have been, and are now, engaged in restraining said trade and commerce of the United States with foreign nations, contrary to said Act of Congress.

15436

Petitioner's Assignments of Error.

IV.

That said Court erred in failing to hold and decree that said defendants have been, and are now, engaged in a combination and conspiracy to monopolize said trade and commerce of the United States with foreign nations, contrary to said Act of Congress.

V.

15437

That said Court erred in failing to hold and decree that said defendants have obtained a virtual monopoly of said trade and commerce of the United States with foreign nations in the business of carrying steerage passengers, contrary to said Act of Congress.

VI.

15438

That said Court erred in failing to enjoin said defendants from combining and conspiring to restrain and monopolize, and the actual restraint and monopoly obtained by the defendants, of the aforesaid trade and commerce of the United States with foreign nations.

VII.

That said Court erred in failing to enjoin, restrain and cancel the general pool agreement denominated "AA," entered into by the defendants on February 5, 1908 (Pet. Ex. 3), and other similar pool and rate agreements prior thereto, amendatory thereof, supplemental thereto, or in any way relating thereto, all of which are now in

effect, and in failing to enjoin and cancel the terms thereof, which provide for the arbitrary apportionment of passengers, the allotment of shares among the various steamship lines, the pooling of earnings, the fixing of rates, the confining of the trade to various designated channels, the limiting of the number of sailings, the providing for action against outside competition either in existence or to come into existence, and the fixing of penalties to be paid from a guarantee deposit for any infraction of or withdrawal therefrom, as being contrary to the Act of Congress aforesaid.

15440

VIII.

That said Court erred in failing to declare void the aforesaid agreement "AA" and other agreements heretofore mentioned as being in restraint of trade and in restraint of said trade and commerce of the United States with foreign nations and as tending to monopolize said trade, contrary to the aforesaid Act of Congress.

IX.

15441

That said Court erred in failing to decree and hold that the pooling of shares of steerage passengers under agreement "AA" and said other agreements by said defendants aforesaid is illegal and contrary to the aforesaid Act of Congress.

X.

That said Court erred in failing to hold and decree that the system provided for in said agree-

15442

Petitioner's Assignments of Error.

ments of the defendants' paying into the pool £1 for each passenger carried in excess of the per cental share of the defendants in said pool, and the drawing out of said sum of money for each passenger carried short of their proportion, for the purpose of deterring the defendant steamship lines from exceeding their proportionate share, is contrary to the Act of Congress aforesaid.

XI.

15443

That said Court erred in failing to hold and decree that the system provided for in said pooling agreements whereby seventy-five per cent. of the lines members thereof had the power to compel a line which was plus or minus in the pool, as aforesaid, to raise its rates so as to deter passengers from traveling by that line if plus in the pool, and to lower its rates so as to attract passengers to said line if minus in the pool, with the object of compelling said line to carry its exact proportion in the pool and no more, is contrary to the Act of Congress aforesaid.

XII.

15444

That said Court erred in failing to hold and decree that the system provided for in said agreements, of fixing certain minimum and relative second and third-class rates, is contrary to the said Act of Congress.

XIII.

That said Court erred in failing to hold and decree that the system provided for in said agree-

Petitioner's Assignments of Error.

15445

ments, of the defendants refusing to give advertisements to, or boycotting any newspaper which attacked systematically any of the defendant lines, is contrary to the said Act of Congress.

XIV.

That said Court erred in failing to hold and decree that the system of compelling each of the defendant lines to deposit security to the amount of £1,000 for each percental proportion of said lines in the pool to be forfeited as a penalty and as liquidated damages if one of the lines

15446

1. Unduly withdraws from the agreement;
2. Resorts to actions which render the continuance of the contract impossible; as, for instance, if a line
3. Refuses to pay the compensation money;
4. Fails to replenish the deposit in due time;
5. Assists directly, or indirectly, a new opposition line;
6. Starts, or assists in starting, a line whereby the steerage traffic of the defendant lines would be seriously interefered with;

15447

and of dividing up the amount of the penalty among the other lines in case the agreement is not lived up to, is contrary to the aforesaid Act of Congress.

15448

Petitioner's Assignments of Error.

XV.

That the said Court erred in failing to enjoin, restrain and prohibit the defendant steamship lines, and each of them, from continuing to put into effect, and to act under, the aforesaid agreement requiring a pledge or guaranty of £1,000 for each percental share of the defendant lines in the pool, for the purposes aforesaid, and from forfeiting the same as a penalty upon a breach thereof, as being contrary to the Act of Congress aforesaid.

15449

XVI.

That said Court erred in failing to enjoin, restrain, prohibit and cancel said agreement for a deposit guaranty and for the forfeiture thereof as a penalty in case of a breach thereof as being contrary to the Act of Congress aforesaid.

XVII.

15450

That said Court erred in not holding and decreeing that the system of penalties provided for in agreement "AA" and other agreements, for the punishment of agents of the combined lines who represent steamship lines competing with pool lines, is illegal under the aforesaid Act of Congress.

XVIII.

That said Court erred in not enjoining, restraining and prohibiting the system of penalties provided for in agreement "AA" and other similar

Petitioner's Assignments of Error.

15451

agreements in evidence for the punishment of agents of the combined lines who represent steamship lines competing with the pool lines as being illegal under the aforesaid Act of Congress.

XIX.

That said Court erred in not holding, decreeing and declaring that the conferences or voluntary associations of all the defendant lines which had signed the pooling and rate agreements; namely, Nordatlantischer Dampfer Linien Verband, or North Atlantic Steamship Lines Combine, the Mediterranean Conference, the Atlantic Conference, the Continental Conference, with a common secretary and office at Jena, Germany; the Atlantic Conference, with a secretary and office at Liverpool, England; the North Atlantic Conference, Continental Conference, Mediterranean Conference, and American Atlantic Conference, with a common secretary and office at New York; the American Atlantic Conference, with a secretary and office at Chicago; and the American Atlantic Conference, with a secretary and office at San Francisco, were, and now are, in the exercise of their duties under said agreements, the effective instruments of the pool lines in crushing out competition of new lines, in fixing the rates, in controlling the actions of the lines in accordance with the pool agreements, in restricting the carrying of the lines, in directing the traffic in certain arbitrarily designated channels, in controlling the railroads of the United States in relation to steerage traffic through agreements therewith, and, in general, monopolizing the steerage traffic of the North Atlantic, and are illegal under the aforesaid Act of Congress.

15452

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15454

Petitioner's Assignments of Error.

XX.

The said Court erred in not enjoining and decreeing the dissolution of the aforesaid conferences as being a combination illegal under the Act of Congress aforesaid.

XXI.

15455

The said Court erred in not enjoining, restraining and prohibiting the said conferences or voluntary associations from carrying out, or taking any part in the carrying out of, said illegal agreements heretofore mentioned.

XXII.

That said Court erred in not holding and decreeing that the said conferences or voluntary associations, by the acts and conduct of the defendants, and their agents, members thereof, in restraining and monopolizing the aforesaid trade and commerce of the United States with foreign nations, were, and are now, illegal under the Act of Congress aforesaid.

15456

XXIII.

That said Court erred in holding and decreeing, in section one of said decree, that, on account of The Allan Line, Byrce J. Allan and the Canadian Pacific Railway Company having retired from the agreement among the several defendants which provided for "fighting steamers" to be put on by the pool lines against the competition of outside lines, the petition against them should be dismissed.

XXIV.

That said Court erred in the first section of its decree in dismissing the petition as against the defendants The Allan Line, Bryce J. Allan and the Canadian Pacific Railway Company.

XXV.

That said Court erred in failing to find, hold, and decree that "Minute 22," "Minute 104" and "Minute 22, Revised," which were adopted by the defendants at a meeting of the Atlantic Conference and which provided for the operation of "fighting steamers" against vessels in competition with the defendant conference or combined lines, were, and are now, a part of the General Pool Agreement "AA;" and in failing to cancel and declare void said minutes as being illegal under the Act of Congress aforementioned.

15458

XXVI.

That said Court erred in failing to enjoin, restrain and prohibit the enforcement by the defendants of "Minute 22," "Minute 104" and "Minute 22, Revised," as part of the pooling agreement "AA" and other similar pooling agreements in evidence, which provided for a system of operating "fighting steamers," so-called, against the steamers of competing lines for the purpose of putting such lines out of business or so lessening or weakening their competition that they would voluntarily go out of business and of deterring other proposed lines from coming into said business, as being illegal under the Act of Congress aforesaid.

15459

15460

Petitioner's Assignments of Error.

XXVII.

That said Court erred in section two of its decree in failing to enjoin the system of operating "fighting steamers" as typified in "Minute 22," "Minute 104" and "Minute 22, Revised," and as shown to exist in the evidence herein.

XXVIII.

15461

That said Court erred in section two of its decree in failing to enjoin, restrain and prohibit the defendants from combining and conspiring to put into effect, and the actual putting into effect of, as being contrary to the Act of Congress aforesaid, a system of operating "fighting steamers," so-called, against the steamers of existing competing lines which happened to be running at certain times, for the purpose of depriving said existing competing lines of the carriage of their passengers who, but for the employment by said defendants of said "fighting ships," would naturally have traveled by said competing lines, and of the gains and profits accruing thereby, and of so injuring and depleting the resources of said competing lines that their competition would be lessened and ultimately utterly destroyed, and for the further purpose of hindering and deterring other lines from coming into existence in competition with said combined lines in view of the severe and disastrous losses which the then existing lines outside of the defendant combination had suffered from the use by said combination of said system of "fighting steamers," which system was as follows: that whenever a ship of a line not a member of the combination was designated by

15462

Petitioner's Assignments of Error.

15463

its owner to sail on a certain day, the combination or pool would designate a ship of the combination to be scheduled to sail on the same day; that if the so-called "fighting steamer" of the combined lines had booked passengers in excess of its capacity, the combined lines would thereupon designate one or more of their other steamers to sail on the same day to carry said excess passengers; that the expense or cost of operating said "fighting steamer" or steamers, which at times ran at rates the same, more, or less than those of the competing steamer, would be borne, in the last analysis, within certain limits, by the combined lines.

15464

XXIX.

That said Court erred in not holding and decreeing that the defendants be enjoined, restrained and prohibited from providing, operating and maintaining competing or "fighting steamers," so-called, as aforesaid, for the purposes aforesaid, against a vessel of a line not a member of the combination, the cost or expense of procuring and operating which "fighting steamer" or steamers is contributed to in any way, in whole or in part, by the pool or combined lines, or where any other method used by said combined lines has the effect of in any way assisting or aiding the operation or maintenance of said vessels.

15465

XXX.

That the said Court erred in failing to hold and decree that the defendants, and each of them, be enjoined, restrained and prohibited from in any

15466

Petitioner's Assignments of Error.

way or by any method jointly providing, operating and maintaining any steamer or steamers against steamers of lines not members of the combined defendant lines for the purpose of in any way, to any degree, lessening, destroying or eliminating the competition of any existing lines or the potential competition of those not in existence.

XXXI.

15467

That said Court erred in failing to enjoin the above-named conferences or voluntary associations of steamship lines, of which the defendants are members, from combining and conspiring to operate, and from operating or assisting in operating, the aforesaid competing or "fighting steamers," and in failing to hold that the said conferences or associations of steamship lines should be dissolved for having assisted or taken part in the operation of said "fighting steamers" and in said combination and conspiracy to operate them, contrary to the Act of Congress aforesaid.

XXXII.

15468

That said Court erred in failing to hold and decree that the defendants have been, and now are, engaged in a combination and conspiracy in restraint of the aforesaid trade by jointly enforcing by heavy penalties a rule of the conferences or combined defendant steamship lines for the purpose of injuring and destroying the competition of outside lines, which provides that no agent of a conference line shall represent any line not a member of the said conference or combined lines, and by jointly maintaining a so-called "eligible

list" of those agents who are required to represent only conference lines, which is an effectual black list of those agents who represent any but conference lines, contrary to the Act of Congress aforesaid.

XXXIII.

That said Court erred in failing to cancel said rule for agents and in failing to enjoin, restrain and prohibit the enforcement thereof by penalties imposed on said agents who transgress it by the combined defendant steamship companies as having had the purpose and effect of restraining the trade of those lines not members of the conference and as being contrary to the Act of Congress aforesaid.

15470

XXXIV.

That said Court erred in failing to enjoin, restrain and prohibit the combination and conspiracy of the defendants to maintain, and the actual maintenance of, said "eligible list," and the consequent disqualification or blacklisting of said persons not on said list, as being contrary to the Act of Congress aforesaid.

15471

XXXV.

That said Court erred in failing to hold and decree that the combined defendants, by having been united under agreement "AA" and other similar agreements, by their being carried out within the United States, and by the unfair methods of said lines in putting into effect against

15472

Petitioner's Assignments of Error.

15473

the competition of outside lines "Minute 22," "Minute 104" and "Minute 22, Revised," the rules for agents of the conference, and by other unlawful acts, the said combined defendant lines have been successful in carrying out measures which they have devised for destroying existing competition and preventing potential competition to the extent that the New York and Continental Line and the Northwest Transport Line have been forced, by a constant series of losses due to the action of the defendants, to go out of the business of operating their steamers and to reorganize with new capital into what has been termed the "Uranium Line;" and that the Uranium Line has suffered such serious losses that, had it not been backed by some unseen and unknown force, it would not have been able to survive until the present time; and that said successful and unfair methods used by the conference lines against the Russian Volunteer Fleet and the Russian East Asiatic Line have caused the result that the Uranium Line is now the only non-conference line in the North Atlantic trade, and that thereby the combined defendant lines have obtained a virtual monopoly of said entire foreign trade of the United States in the carriage of steerage passengers.

15474

XXXVI.

That said Court erred in failing to hold and decree that the defendant combined lines, by a series of agreements with the various railroad associations throughout the United States, have so controlled and monopolized the routing of steerage passengers arriving in the United States, that they have exacted from said railroad asso-

Petitioner's Assignments of Error.

15475

ciations a virtual rebate of ten per cent, of the amount of the passage money paid by said steerage passengers for their transportation throughout the territory of said railroad associations within the United States, and thus have supplemented their monopoly obtained on the sea over said passengers by an effectual control, admitted by said defendants, of the railroad business, as regards said passengers, on land.

XXXVII.

That said Court erred in failing to enjoin said combined defendant lines from combining and conspiring with said railroad associations and the members thereof to enforce, and from enforcing, the terms of said agreements, as being contrary to the aforesaid Act of Congress.

15476

XXXVIII.

That said Court erred in failing to hold and decree that the said agreements with said railroad associations be declared void and canceled as contrary to the aforesaid Act of Congress.

15477

XXXIX.

That said Court erred in failing to hold and decree that the defendant combined lines be enjoined from accepting or receiving or exacting from said railroad associations the so-called "ten per cent. commercial allowance," or rebate, as aforesaid, as being contrary to the Act of Congress aforesaid and as assisting in maintaining the control and monopoly of the business aforesaid.

15478

Petitioner's Assignments of Error.

XL.

That said Court erred in failing to hold and decree that the agreements for the granting of said "commercial allowances" or rebates to said combined steamship lines, while withholding the same from competing lines not members of the combination, have had the effect of restraining the trade of said outside or competing lines and are contrary to the Act of Congress aforesaid.

XLI.

15479

That said Court erred in failing to hold and decree that the defendant combined steamship lines had fixed among themselves arbitrary rates for third-class passengers carried by them and have used said rates for the purpose of diverting the said trade from its usual and natural channels and turning it into channels designated by themselves, for the purpose of carrying out their pooling agreements, contrary to the Act of Congress aforesaid.

XLII.

15480

That said Court erred in failing to hold and decree that the defendant conference or combined lines have entered into a combination and conspiracy to fix, and have fixed, arbitrary rates for the purpose of controlling and diverting the trade aforesaid, contrary to the Act of Congress aforesaid.

XLIII.

That said Court erred in not enjoining, restraining and prohibiting the combination and con-

Petitioner's Assignments of Error.

15481

spiracy among said defendant combined lines to fix and control, and the actual fixing and controlling of, said arbitrary rates, for the purpose of diverting trade from its usual and natural channels into channels designated by themselves, as being contrary to the Act of Congress aforesaid.

XLIV.

That said Court erred in failing to enjoin and cancel the agreements of said combined lines for the fixing of said arbitrary rates for the purpose of diverting said trade contrary to the Act of Congress aforesaid.

15482

XLV.

That the Court erred in failing to hold and decree that the defendant combined lines have been, and now are, engaged in a combination and conspiracy to fix excessive rates for the transportation of passengers in the business aforesaid, contrary to the Act of Congress aforesaid.

XLVI.

15483

That said Court erred in failing to enjoin, restrain and prohibit said combination and conspiracy of said defendants for the fixing and controlling of said excessive rates as being contrary to the Act of Congress aforesaid.

XVII.

That said Court erred in failing to hold and decree that said rates fixed by said combination

15484

Petitioner's Assignments of Error.

of steamship lines were arbitrary and excessive and contrary to the Act of Congress aforesaid.

XLVIII.

That said Court erred in failing to enjoin, restrain and prohibit the defendants from continuing to put into effect said excessive and arbitrary rates in the business aforesaid as being contrary to the Act of Congress aforesaid.

15485

XLIX.

That said Court erred in failing to enjoin and cancel the provisions for the fixing of arbitrary and excessive rates contained in pooling agreement "AA" and other similar pooling and rate agreements in evidence as being contrary to the Act of Congress aforesaid.

L.

That said Court erred in failing to grant the prayers of said petitioner, and each of them, as prayed for.

15486

LI.

That said Court erred in section three of its decree in dismissing all other prayers of the petitioner for relief.

LII.

That said Court erred in section three of its decree in dismissing all other prayers of the petitioner for relief, without costs to the petitioner.

Petitioner's Assignments of Error.

15487

Wherefore, in order that the foregoing assignments of error may be and appear of record, said petitioner presents the same to the Court and prays that such disposition be made thereof as is in accordance with law and the statutes of the United States in such cases made and provided; and said petitioner prays a reversal of said decree so as to bring it within the laws of the United States in such cases made and provided, and that an order may be entered granting said petition and the prayers thereof as to each and every one of said defendants and such other and further relief to the petitioner as to the Court may seem meet or justice may require.

15488

Dated, New York, November 12th, 1914.

H. SNOWDEN MARSHALL,
U. S. Attorney,
Solicitor for the Petitioner,
Office and Post Office Address,
Room 202, U. S. Court House,
and Post Office Building,
Borough of Manhattan,
City of New York.

15489

H. SNOWDEN MARSHALL,
United States Attorney;

HENRY A. GUILER,
Special Assistant to the
United States Attorney,
Solicitors for Petitioner.

15490 **Notice of Assignments of Error.**

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA, Petitioner,	}	In Equity, E-7-74.
v.		
HAMBURG-AMERIKANISCHE PACK- ETFAHRT-ACTIEN-GESELLSCHAFT, <i>et al.</i> ,		
Defendants.		

15491

Sirs:

Please take notice that we will present to the Judges of the Circuit Court sitting as an Expedition District Court, at the Chambers of Judge Lacombe, United States Court House and Post Office Building, Borough of Manhattan, City of New York, on the 14th day of November, 1914, at 10.00 o'clock in the forenoon, the foregoing assignments of error on behalf of the petitioner, the United States of America.

15492

Dated, New York, N. Y., November 12, 1914.

Yours, etc.,

H. SNOWDEN MARSHALL,
 U. S. Attorney,
Solicitor for Petitioner,
 Office and P. O. Address,
 Room 202, U. S. Court House
 and Post Office Building,
 Borough of Manhattan,
 City of New York.

Notice of Assignments of Error.

15493

To

MESSRS. SPOONER & COTTON,
14 Wall Street,
New York, N. Y.

MESSRS. BURLINGHAM, MONTGOMERY & BEECHER,
27 William Street,
New York, N. Y.

MESSRS. CHOATE, LAROCQUE & MITCHELL,
40 Wall Street,
New York, N. Y.

15494

MESSRS. LORD, DAY & LORD,
49 Wall Street,
New York, N. Y.

RALPH J. M. BULLOWA, ESQ.,
10 Broadway,
New York, N. Y.

15495

15496

Praecipe.UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA, Petitioner, v. HAMBURG-AMERIKANISCHE PACK- ETFAHRT-ACTIEN-GESELLSCHAFT, <i>et al.</i> , Defendants.	} In Equity, E-7-74.
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15497

Alexander Gilchrist, Jr.,
 Clerk U. S. District Court,
 Southern District of New York.

You will please take notice that the portions
 of the record to be incorporated in the transcript
 on the appeal of the petitioner, represented by the
 undersigned solicitor, are as follows:

1. The petition of the United States.
2. Answers of defendants.
3. General replications.
4. Demurrers of defendants to petition.
5. Decision of court on demurrers.
6. Pleadings, proof and proceedings following
 demurrers.

15498

7. Record used in the District Court.
 8. Decision of court on hearing of the facts
 in the record.
 9. Decree of the court.
 10. Proceedings after decree.
- New York, N. Y., November 12, 1914.

H. SNOWDEN MARSHALL,
 U. S. Attorney,
Solicitor for the Petitioner,
 Office and Post Office Address,
 Room 202, U. S. Court House
 and Post Office Building,
 Borough of Manhattan,
 City of New York.

Citation.

15499

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA, Petitioner, v. HAMBURG-AMERIKANISCHE PACK- ETFAHRT-ACTIEN-GESELLSCHAFT, <i>et al.</i> , Defendants.	}	In Equity, E-7-74.
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15500

By the Honorable E. Henry Lacombe, one of the
Circuit Judges sitting in the District Court
of the United States for the Southern District
of New York in the Second Circuit.

To the Allan Line Steamship Company, Limited,
International Mercantile Marine Company
(American Line), International Navigation
Company, Limited (American Line), the
Anchor Line (Henderson Brothers), Limited,
Canadian Pacific Railway Company, the
Cunard Steamship Company, Limited, British
and North Atlantic Steam Navigation Com-
pany, Limited (Dominion Line), Hamburg-
Amerikanische Packetfahrt-Actien Gesell-
schaft (Hamburg-American Line), Neder-
landsh-Amerikaansche Stoomvaart Maat-
schappij (Holland-Amerika Lijn), Nord-
Deutscher Lloyd (North German Lloyd Line),
Societe Anonyme de Navigation Belge Ameri-
caine (Red Star Line), Russian East Asiatic
Steamship Company, Limited (Russian-
American Line), Oceanic Steam Navigation
Company, Limited (White Star Line) Bryce

15501

15502

Citation.

J. Allan, Phillip A. S. Franklin, John Lee, William Coverley, Charles P. Sumner, Adrian Gips, Herman C. Von Post, Gustav H. Schwab, Jr., Alexander E. Johnson and Max Straus.

GREETING :

15503

You are hereby cited and admonished to be and appear before a Supreme Court of the United States to be holden at the City of Washington in the District of Columbia on the 18th day of November, 1914, pursuant to an appeal filed in the Clerk's office of the District Court of the United States for the Southern District of New York from a judgment and decree made on or about the 9th day of November, 1914, in a certain proceeding wherein the United States is petitioner and the Hamburg-Amerikanische Packetfahrt-Actien-Gesellschaft *et al.* are defendants, and wherein the United States of America is appellant and you are respondents, to show cause, if any there be, why the judgment and decree in said appeal mentioned should not be corrected and speedy justice should not be done in that behalf.

15504

Given under my hand at the Borough of Manhattan, in the City of New York, in the District and Circuit above-named, this 14th day of November, in the year of our Lord one thousand nine hundred and fourteen and of the independence of the United States one hundred and thirty-eighth.

E. HENRY LACOMBE,

Circuit Judge sitting in the District Court of the United States for the Southern District of New York in the Second Circuit.

Stipulation.

15505

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA, Petitioner, v. HAMBURG-AMERIKANISCHE PACK- ETFAHRT-ACTIEN-GESELLSCHAFT, <i>et al.</i> , Defendants.	} In Equity, E-7-74.
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15506

It is hereby stipulated and agreed that the foregoing fourteen printed volumes containing pages of testimony and pleadings 1-1859; of exhibits 1-5170 and index 1-154, are a true transcript of the record of the said District Court in the above-entitled matter as agreed on by the parties.

Dated, November 14, 1914.

H. SNOWDEN MARSHALL, United States Attorney, <i>Solicitor for Petitioner.</i> CHOATE, LAROCQUE & MITCHELL, BURLINGHAM, MONTGOMERY & BEECHER, SPOONER & COTTON, LORD, DAY & LORD, RALPH JAMES M. BULLOWA, <i>Solicitors for Defendants.</i>	15507
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15508

Certification.

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,	}
Petitioner,	

v.

HAMBURG-AMERIKANISCHE PACK-	}
ETFAHRT-ACTIEN-GESELLSCHAFT,	
<i>et al.</i> ,	

Defendants.

15509

I, Alexander Gilchrist, Jr., Clerk of the District Court of the United States of America for the Southern District of New York, do hereby certify that the foregoing consisting of the pleadings and testimony, pages 1-1859; exhibits 1-5170; index 1-154 is a corrected transcript of the record of the said District Court in the above-entitled matter as agreed on by the parties.

15510

In testimony whereof, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, this 16th day of November in the year of our Lord one thousand nine hundred and fourteen and of the independence of the said United States the one hundred and thirty-ninth.

ALEX. GILCHRIST, JR.,
Clerk.